

CARVER COUNTY PLANNING COMMISSION
Regular Meeting – April 16, 2019
Minutes

Members Present: Jim Burns, Jim Ische, Scott Smith, Frank Mendez, John P Fahey

Members Late: None

Members Absent: Gabrielle Theis, Mark Willems

Staff Present: Jason Mielke, Paul Moline, Adriana Atcheson, Jennifer Tichey,
Mark Metz

Pursuant to due call and published notice thereof, the April 16, 2019, regular meeting of the Carver County Planning Commission was called to order by Chairman Burns at 7:00 p.m.

Minutes – A motion was made by Ische and seconded by Smith to approve the minutes from the March 19, 2019 meeting. All voted aye. Motion carried.

File #PZ20190015 – Corey Trebiatowski – Chairman Burns called the public hearing to order at 7:01 p.m. to consider a request by Corey Trebiatowski. The purpose of the public hearing was to consider a request for a Contractor’s Yard pursuant to Chapter 152 of the County Code. The property is located in Section 2 of Dahlgren Township.

The following were present: Corey Trebiatowski, Eric Kittleson, Kathie Anderson

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 – Site Plan

Exhibit E – Letter from the applicant dated March 19, 2019

Exhibit F - Letter to the Planning Commission and Dahlgren Township dated April 8, 2019, and attachments

Mielke explained the applicant owns and operates a small trucking firm, CT Trucking, which he would like to have based at this site. He is proposing to construct an approximate 60’ x 144’ pole building that would be used to house the business equipment including trailers, trucks and skid loaders. Some personal storage would also be included in the building as well as an area for office and a restroom. The typical hours of operation are 6:30 a.m. to 6:00 p.m. and four employees would report to the site daily, generating four trips in and out from the site. Outside storage would be limited but may consist of a Class 5 gravel stockpile. The property is naturally screened with a densely wooded area surrounding the buildings. Mielke used an aerial photo of the property as an illustration. No signage is proposed at this time. A holding tank is proposed for use with

the bathroom facility and will need to be reviewed and approved by the Environmental Services Department. The Public Works Department reviewed the driveway access and required that it be widened an additional 10 feet to the north. The culvert will also need to be extended so as not to impede the current drainage flow conditions. Dahlgren Township heard the request at their March 11th meeting and recommended approval. Mielke read the conditions for consideration if the request is approved.

A motion was made by Smith and seconded by Mendez to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:09 p.m.

A motion was made by Ische and seconded by Fahey to **approve and adopt Resolution #19-04** incorporating the findings of fact and staff recommendations approving the Conditional Use Permit for a contractor's yard. All voted aye. Motion carried.

File #PZ20190016 – Joe Kerber – Chairman Burns called the public hearing to order at 7:10 p.m. to consider a request by Joe Kerber. 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 36 of San Francisco Township.

The following were present: Joe Kerber, Debbie Kerber, Doug Weber, Kathie Anderson, Eric Kittelson

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 – Site Plan

Exhibit E – Letter from the applicant dated March 27, 2019

Exhibit F – Letter to the Planning Commission and San Francisco Township dated April 8, 2019, and attachments

Mielke explained the applicant owns an approximate 3.24-acre parcel that is improved with a house and a detached accessory structure which has been used as part of an approved existing contractor's yard (Administrative Permit #7945). The applicant is requesting to re-construct the accessory structure which was recently damaged by fire. Mielke explained that this request is for a personal accessory structure and is unique in that the applicant was granted a Certificate of Zoning Compliance in 1989 (Administrative Permit #7945) allowing use of the building as a part of an existing contractor's yard. The applicant was required to provide evidence that there was an existing contractor's yard prior to 01/01/1989 in order to operate the trucking business from this property. The proposed structure would be slightly larger than the existing footprint, a total of approximately 4,660 square feet, and would be used for the business (2 semi-tractors, trailers, shop materials and supplies, etc.) as well as personal items (vehicles, classic tractors, snow equipment, bobcats, etc.). Mielke used an aerial map to illustrate the building location. The contractor's yard is allowed to operate from this structure as long as it is compliant with the conditions that were placed on it with Permit

#7945. The previous building had access to water and the applicant would like to continue that use. There is no proposal for a bathroom in the structure. San Francisco Township heard the request at their March 18th meeting and recommended approval. Mielke read the conditions for consideration if the request is approved.

Doug Weber, representing San Francisco Township, confirmed the township's recommendation for approval of the request.

A motion was made by Fahey and seconded by Smith to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:17 p.m.

A motion was made by Fahey and seconded by Mendez to **approve and issue Order PZ20190016** incorporating the findings of fact and staff recommendations approving the Conditional Use Permit for an accessory structure. All voted aye. Motion carried.

File #20190014 – 2040 Comprehensive Plan (continued) – Chairman Burns called the public hearing to order at 7:18 p.m. to consider a request by Carver County. The purpose of the public hearing was to consider the Draft 2040 Comprehensive Plan pursuant to Chapter 152 of the County Code.

The following were present: Kathie Anderson, Ron Kassulker, Mike Lynch, Eric Kittelson, Wayne Hubin, Doug Weber, Gerald Bruner, Betty Jopp, Steve Yetzer, Don Mohs, Angie Stenson

The following items were entered into the record:

- Exhibit F – Memo from Lyndon Robjant dated April 9, 2019 and attachments
- Exhibit G – The proposed alternative 2040 Comprehensive Plan Policy LU-20
- Exhibit H – Three (3) submitted written comments

Atcheson stated the public hearing was opened last month and continued to accommodate the townships that were still discussing options prior to finalizing and approving their chapters in the Comp Plan, and the transportation model was still being reviewed. Three written comments were also received, and copies were distributed to the Commission members. Atcheson stated the comments were all relating to solar energy and summarized them as concerns with the essential services wording, suggesting that solar developments be in a separate section, equal consideration of all land-owner rights, prohibition of absentee land owners to construct solar gardens, increasing separation distances, and a perception that townships have little influence over placement of solar developments.

Atcheson stated that the townships of Camden, Dahlgren, Hancock, Laketown, and Waconia have approved their chapters. Hollywood Township voted to allow building eligibility transfers to non-adjacent parcels to be included in their chapter. San Francisco Township is planning to adopt their chapter, pending inclusion of language about the different soil varieties regarding prime ag land in the township. Benton Township will

hold a meeting soon to vote on their chapter, and the deadline for all Townships to finalize and adopt their chapters is May 3rd.

Atcheson discussed the transportation changes and used slides for illustration and clarification. The information was also included in the meeting packet. Angie Stenson from the Public Works Department was also available to answer any questions concerning the transportation information. Atcheson highlighted changes to the 2040 System Statement and also the locations of socioeconomic growth. There were also revisions made in the combining of two maps to clarify previous inconsistencies and better displays the Future Roadway System and Potential Jurisdictional Transfers.

Atcheson reviewed and explained alternative language to Policy LU-20 which is recommended by Planning and Water Management staff, should changes be desired by the Commission, and has been reviewed by the County Attorney's office and could be recommended to the County Board. Input on these changes is invited. She highlighted the changes of adding 'limited private uses' to the title along with 'quasi-public services'. The intention is that large scale solar production and/or any other types of energy production would come under this wording rather than the term 'essential services'. Language was added to both the title and first sentence that a use would need to serve a community purpose. The County Board would determine if a solar project serves a community purpose. Solar gardens can be located in any policy area, as solar gardens are allowed in any policy district but not appropriate anywhere in the County. Language was changed to replace 'factors to consider' to 'factors that must be considered' to strengthen the language so that all factors in the listing must be considered for any uses that fall under this section.

Paul Moline, Planning and Water Management Services manager, stated there has been much discussion about this language and proposed changes. Concerns of solar uses in the essential services policy and other issues were expressed by Planning Commission members, Township boards and members of the public at public meetings held in March. He introduced County Attorney, Mark Metz, to address the activity to date and explain why the revised language is included in Policy LU-20 and not separated into different policies.

Mark Metz, Carver County Attorney, stated there were many options with respect to this Comp Plan policy. Much constructive feedback has been voiced by members of the public to staff and Planning Commission members on the Comp Plan and especially the solar energy topic. This feedback has helped with drafting the most appropriate policy language for the 2040 Comp Plan. He stated that even though the current language 'essential service' has withstood judicial scrutiny at the Mn Court of Appeals, doesn't mean that changes shouldn't be written to try and better reflect the County's policy and provide guidance in this section. He stated that the proposed language modifications have been reviewed by his office and appears to address the concerns raised by a number of citizens and reflects the intent of the policy. More importantly, the modified language better reflects how the Land Management staff and County Board have applied this section over the past 20 years, to include cell phone towers, waste management, school

bus garages, and now solar gardens. Metz reminded everyone that the County Comp Plan is a guiding document, and the modified language remains broad and gives discretion to the County Board to ultimately make the decision with individual CUP's.

Atcheson concluded by stating the staff recommendation would be to close the public hearing and forward the 2040 Comprehensive Plan to the County Board.

Fahey asked about the new language 'limited private uses and uses that serve a community purpose'. He asked for a definition or current example of a solar garden that is in operation and how it would have been altered to serve a community purpose.

Moline stated that the energy produced from a solar garden flows through the Xcel grid and local residents and the surrounding community can subscribe to the service and use the energy. Unfortunately, different utility boundaries may affect that option, but the language would guide the County Board's decision on whether or not it serves a community purpose.

Fahey asked if the definition of 'community' included Carver County as a whole.

Moline replied that the community definition would certainly depend upon the type of use, but could include the entire County. The word 'community' is not restricted by any geographic boundary. And the types of uses guided in this policy are varied, so some may be extremely local and broader for others. He gave the example of a cell tower and stated that the service it provides does not stop at the County boundary.

Mendez clarified that this policy is not going to affect any solar gardens that are already approved and in operation.

Moline confirmed that was correct. Once the 2040 Comp Plan is adopted, it will govern future requests. Any ordinance changes affected by the Comp Plan will affect new requests.

Kathie Anderson, 14750 50th St, stated she was at previous meetings and one of the primary points that people discussed about solar energy was that the language was 'loose' and more clarification was requested. She was disappointed because the proposed language changes were not posted on the website along with the rest of the packet information so concerned citizens were not informed prior to this meeting. She continued and stated that she has been following pending legislature concerning solar energy and there is a bill requiring that only 10% of the solar energy be made available to individual citizens. The vast majority of the energy produced is for larger government or business entities. She stated that since the ownership is a limited liability company, there is no way to find out the participating subscribers to determine if it serves a 'community purpose'. She disagreed with the language 'as determined by the County Board' because it was not specific and left the decision-making up to three guys. She stated this is certainly not what the citizens have expressed over the past three years about solar. She expressed frustration with the process and questioned who was actually drafting this

language. She noted the most recent solar garden being constructed in Hancock Township was recommended for denial by the Township, the Planning Commission and the County Board, yet it went to the Court of Appeals and was granted approval. She stated the language is too ambiguous and may be cause for these inconsistencies. She read language from a brief in a previous court case, without the citations, on how the Comp Plan is used. She emphasized the terms ‘specific, express provisions of the plan’ in stating that since the request did not violate the specific, express provisions of the plan, the Court did not uphold the recommendation for denial. She continued and stated that the Court brief emphasized that solar energy was encouraged by the current Comp Plan language. She reiterated that several people have requested that the language be clear and specific and the current and proposed language promote the exact opposite result. She stated a discussion/debate with the citizens and the staff to help draft more specific language on this subject might have been helpful.

Doug Weber, San Francisco Township, described solar ‘garden’ as a marketing term and felt solar ‘power plants’ was a more accurate description for the energy producing sites. He viewed the list of uses that serve a community purpose and felt that with the exception of energy production, they are very necessary to the point of applying eminent domain to take and use land for that purpose. He felt energy production does not belong in this category and should be in a different category.

Mike Lynch, Hollywood Township, referred to the transportation map 4.15 and asked that roads slated to be returned to the cities and township be identified on more maps. He stated that Hollywood Twp has been asking to have 30th Street identified as a road that will be turned back to the County when traffic numbers increase to the required levels. In order for that to happen, the roadway must be identified in the long-range transportation plan as a future County highway. He asked that 30th Street be included in the long-range transportation plan maps.

Chairman Burns clarified that this is 30th Street from County Rd 33 westward to the McLeod County line.

Wayne Hubin, 11975 Swede Lake Rd, also expressed his frustration with the proposed language changes concerning solar energy and not being made aware of it until this meeting. He discussed the response to Watertown Township’s written comments listed in the prior meeting and clarified that the suggestion for language was not ‘additional regulations’ but was additional clarification for the Comp Plan and putting them in a spot where it is a little less vulnerable. He did not agree with the proposed language and felt that previous comments were not fully heard or understood.

Don Mohs, Waconia Township, complimented the staff’s summary of Waconia Township’s submitted concerns. He stated the biggest concern for the Township is the time of notification of a solar request. He felt the Township was the last to be notified and would like the information sooner. He questioned how many solar sites can be constructed in one township because Waconia Township already has eight sites, which remove a considerable amount of farmland from production.

Mr. Hubin asked if all of the comments made at the public hearings are presented to the County Board.

Moline stated that when the draft 2040 Comp Plan is presented to the County Board with the Planning Commission recommendation, the comments received during the public hearings will also be available to the Board.

Ms. Anderson added that many of the solar applicants promote their construction as a benefit to the local economy by using local employment, hotels, restaurants and other amenities. She shared her observance and experience of one solar construction site and questioned the 'local' reference.

A motion was made by Smith and seconded by Ische to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 8:03 p.m.

Mendez asked how many solar facilities have been approved in the County to date.

Mielke replied that there are 16 solar sites in varying phases of construction within the County, which includes the large project outside of Norwood Young America on Hwy 5, that was approved by the PUC.

Mendez asked for a map illustrating the locations of the solar sites as information for the Commission. Mendez asked if it would be possible to add language to the proposed changes for clarity and confidence.

Metz responded stating the Planning Commission can certainly vote to make changes. It is an advisory board that can decide what language to provide as recommendation to the County Board for their decision.

Mendez asked what the deadline is for finalizing the Comp Plan.

Moline stated that staff is seeking a recommendation from the Planning Commission to put this before the County Board for a public hearing and discussion. There is a June 30th deadline, which is the 6-month extension date granted from the Met Council. It would be good to get this to the County Board soon for their review and discussion and the June 30th deadline is vital.

Chairman Burns stated his preference is to give staff specific language on this issue, because it was recommended for change at the last meeting and if this proposal is not satisfactory, then detailed suggestions should be offered. He noted that there is still another public hearing and opportunity for changes by the County Board.

Mendez also stated the wording *effects on existing and planned land uses in the area* should also be discussed and in the recommendation to the County Board. He stated he did not have any specific wording to offer at this time.

Fahey stated a special meeting of the Planning Commission in April would allow a little more time to consider language possibilities.

Mendez agreed that the proposed language is better than the previous version but was still concerned about voting at this meeting.

Ische stated that he would support the information presented and allow it to be discussed at the public hearing with the County Board. People would have time to consider possible changes and make their comments at that public hearing. He also stated that the County Board public hearing may not be closed immediately but could also be continued.

Smith stated he was satisfied with the proposed language changes.

Burns echoed that he was comfortable with the proposed language and a recommendation to forward the information to the County Board.

Fahey summarized the events preceding this meeting and stated that he also did not have any alternative language to offer at this time, but recognized that another public hearing with the County Board will be held with the opportunities to make changes. This will allow a little time to consider specific language that anyone would want to offer.

A motion was made by Burns and seconded by Smith to **adopt Resolution #19-05** to recommend approval of the draft 2040 Comprehensive Plan with the updated language. All voted aye. Motion carried.

Adjournment

A motion was made by Ische and seconded by Smith to adjourn the meeting. All voted aye. Motion carried. The meeting was adjourned at 8:18 p.m.