

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS
November 4, 2021

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, November 4, 2021 at the Chisago County Government Center.

Staff Present: Kurt Schneider, Environmental Services Director; Beth Thorp, Land Services Coordinator; and, Diane Sander, Land Services & Parks Specialist.

Chair Johnson called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was taken. Commission members present: Shellene Johnson, Chip Yeager, Jim McCarthy, Frank Storm, John Sutcliffe, Kelly Corbin, and Dave Whitney. Also present: Ex Officio: County Commissioner Chris DuBose. A quorum was established with members present.

APPROVAL OF AGENDA – Motion to approve the agenda made by Frank Storm. Second by John Sutcliffe. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none.

APPROVAL OF MINUTES – Motion to approve the October 7, 2021 minutes by Dave Whitney. Second by Jim McCarthy. Dave Whitney suggested an edit to the minutes; following discussion he withdrew his suggestion. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none.

RECEIPT OF MATERIALS AND SUBMITTALS INTO THE RECORD - Motion that all applications, submittals, reports with attachments, and other materials were received into the record made by Frank Storm. Second by Chip Yeager. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. Meeting materials distributed in advance to the Planning Commission for their review included: Staff Reports with attachments, Staff Report from Director Schneider with attachments, Johnson 2 Staff Report with updated Decommissioning Table, Correspondence from Mr. Zerwas, Correspondence from Ms. Kuehn on behalf of Ms. Zaavedra, Commissioner Whitney's Zaavedra's Suggested Additional Conditions and Tour Notes, Correspondence from Chisago Lakes Sportsman's Club, and Commissioner McCarthy Provision for Noise. Copies of all correspondence and meeting materials were made available for electronic distribution and at the entrance of the meeting room.

Public Hearing Items:

Paul and Jenny Steward – The subject site is in the Agricultural District and located at 15765 392nd Street, Amador Township, S13, T35, R20 (PID# 01.00254.00). Paul and Jenny Steward, applicants, are seeking approval of the Preliminary Plat of Steward Hills Estates. The subject site is 20.03 acres in size and the proposed plat includes three parcels. Coordinator Thorp presented background information on the Steward's application. The parcel is zoned Agricultural (AG), with a proposed subdivision of three lots. Two lots are five acres and the third lot is ten acres. All proposed parcels have at least 300 feet of frontage on 392nd Street and meets all other AG dimensional standards. A Conditional Use Permit (CUP) was granted for a commercial dog kennel in August 2012. The preliminary plat will alter the parcel which the CUP was granted. Property owners will be required to apply for a CUP Amendment if they wish to continue operating the kennel to update from the whole 20 acres to Lot 2 (5 acres). The CUP Amendment would be required prior to or concurrently with the Final Plat process. A

second option, the property owners could surrender their CUP. Technical Review Committee met on October 13, 2021 and the proposed preliminary plat complies with and is consistent with the intent of the Zoning and Subdivision Ordinances. Amador Township Board recommended approval with no conditions at their October 19, 2021 meeting. Mr. Steward was present to address questions and concerns. Chair Johnson asked Mr. Steward and each Planning Commission member for additional questions and comments. Mr. Steward highlighted his commercial kennel CUP and indicated he currently has a total of five dogs; two dogs are elderly and near the end of their life expectancy. Mr. Steward is considering breeding one more litter prior to final plat. Current ordinance indicates a kennel cannot exceed three or more dogs. Mr. Steward is not interested in the CUP Amendment process and would surrender the commercial kennel CUP. Steward requested to be allowed to exceed the limit of three dogs until his two elderly dogs pass away, instead of being out of compliance with the ordinance. Jim McCarthy discussed performance standards that have been added to kennel CUPs since Mr. Steward's 2012 CUP approval. Discussion between Board and staff was held to assist Mr. Steward to be in compliance with the ordinance and surrender of his CUP.

Chair Johnson opened the public hearing and sought comment.

Susan Sandberg, 415 Osceola Avenue South – I do not envy your jobs. People from the cities come here for retirement and value their privacy. People here value their land they have held onto for so long. I do not envy the Planning Commission or County Board of regulating the transition of low density rural agricultural land to suburbia.

With no additional person wishing to speak, ***motion*** by John Sutcliffe to close the public hearing. Second by Chip Yeager. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. Each Planning Commission member was asked for additional questions and comments. Board continued discussion on surrendering the CUP within a designated timeframe. ***Motion*** by Jim McCarthy to adopt Resolution No. PC2021-1101, a resolution recommending approval of the Preliminary Plat of Steward Hills Estates at 15765 392nd Street, PID#01.00254.00 with the following conditions:

1. The Preliminary Plat is approved per plat drawing dated signed September 30, 2021. Any deviation from the approved plat drawing shall require further review by the Planning Commission and approval by the County Board.
2. The applicant shall surrender the August 2012 Conditional Use Permit allowing a Commercial Dog Kennel at 15765 392nd Street (PID 01.00254.00) and reduce the number of dogs on site to three within 12 months of Final Plat approval.
3. Chisago County strongly recommends the use of silt fencing around all delineated wetlands, particularly where sedimentation due to construction is likely to occur.
4. Chisago County requires that surveyors locate and survey all delineated wetland areas. The Notice of Decision is not an approval for any wetland impacts. The applicant must address any impacts under separate cover. The Notice of Decision does not represent approval / concurrence by the US Corps of Engineers for this or any wetland delineation report, replacement plan or exemption request. Chisago County suggests contacting the project manager for this area for concurrence and / or approval.
5. The applicant shall obtain all necessary and applicable permits from Federal, State, and County jurisdictions for any wetland impacts prior to commencement of development.
6. The applicant shall submit request for Final Plat within one year following approval of the Preliminary Plat, unless an extension of time if requested by the applicant and granted by the County Board upon recommendation of the Planning Commission.

Second by Dave Whitney. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. Chip Yeager noted this was the first preliminary plat approved under the updated ordinance with the new buildable area standards.

Keith Johnson / Johnson CSG 2, LLC – The subject site is in the Agricultural District and is generally located west of Oasis Road/County Road 9 and south of 375th Street, Sunrise Township, S28, T35, R20 (PID# 09.00303.10). Johnson CSG2, LLC, applicant, on behalf of Keith Johnson, property owner, is requesting an Interim Use Permit for a Community Solar Garden within ¼ mile (on the same property) as an existing solar array. Coordinator Thorp presented background information on the Johnson application. The site is currently developed with two solar energy systems. An administrative permit was issued in June 2017 for the first solar array, along the west property line along County Road 11. In April 2019, a second IUP solar array was approved to be placed directly east of the existing array along County Road 11. The third solar array on this property was issued November 2019 and placed south of the existing arrays with access along Oasis Road. In April 2020, the second array became null and void because it had not been acted upon within twelve months of the issued date. The property as it exists today has land use approval for two solar arrays identified as projects #1 and #3 which have been acted upon and remain valid. The requested IUP project remains similar to what was previously approved in April 2019. Johnson CSG2, LLC, applicant, on behalf of Keith Johnson, applied for a variance to allow the construction of a community solar garden array closer to the centerlines of County Roads 11 and 9 (375th St. / Oasis Rd.) then allowed by the Chisago County Zoning Ordinance. The variance was approved on September 30, 2021 as noted on the site plan, Plan Sheet PV1 dated received September 29, 2021. Coordinator Thorp identified two concerns, including the decommission plan and the landscape plan. Thorp reported the decommission plan included 100% for removal and restoration, but should be 125%. Thorp also stated that while the applicant provided a landscape plan, it did not appear to be provided by a landscape engineer or certified arborist as required by the Zoning Ordinance. Technical Review Committee met on September 8, 2021 and incorporated comments from the Wetland Specialist in the conditions of approval, there were no concerns identified by the committee. Sunrise Township Board recommended denial due to road setbacks being far removed from current ordinance and decommissioning cost was far too short of 125% at their September 9, 2021 meeting.

Mr. Johnson, AJ Armstrong, Gordian Energy Systems and Aaron Knoll, Attorney from Greene Espel PLLP law firm were present to address questions and concerns. Chair Johnson asked the applicant and each Planning Commission member for additional questions and comments. Mr. Johnson reviewed his water quality improvement project for the site and maintains work was done on the site for the first application. Dave Whitney listed concerns with the decommissioning plan and asked clarifying questions if all materials will be recycled or disposed of in a landfill. Mr. Knoll confirmed the financial surety/site restoration would total the required 125%. Chair Johnson expressed concerns of additional electrical poles and suggested the interconnection be located as close as possible to the first project. Mr. Armstrong indicated Gordian would work with Xcel Energy and get the interconnection as close as possible.

Chair Johnson opened the public hearing and sought comment.

Andy Olson, 12737 375th Street - listed his concerns of being surrounded by solar instead of active agricultural. He has invested a tremendous amount of money into his property and is now being surrounded by solar. Solar projects impact property values and will make my property worthless. Solar projects only benefit the landowner and energy company, nobody else. Solar projects impact wildlife and do not support overall economic growth for the community. It is foolish to install solar projects all over county, nobody wants to live next to solar. This solar project is not meeting current solar ordinance.

With no additional person wishing to speak, **motion** by Frank Storm to close the public hearing. Second by John Sutcliffe. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. Each Planning Commission member was asked for additional questions and comments. Discussion continued with concerns and possible conditions making sure solar components are recycled instead of disposed of, interconnection agreement with Xcel Energy and adding additional screening. Board members also discussed the Board of Adjustment approval of the reduced road setback. **Motion** by Frank Storm to adopt Resolution No. PC2021-1102, a resolution recommending approval of an Interim Use Permit allowing a Commercial Solar Energy System generally located at the southwest intersection of County Road 9 and county Road 11, PID#09.00303.10 with the following conditions:

1. The project shall be developed and the facility shall be operated in conformance with the proposal elements identified in the application, including the written narrative dated August 30, 2021 and site plan dated received September 29, 2021, except as specifically noted below. Any deviation from the approved project shall require further review by the Planning Commission and approval by the County Board.
2. Construction and routine maintenance activities shall be limited to daytime working hours, as defined in Minn. R. 7030.0020, to ensure nighttime noise level standards will not be exceeded.
3. The permittee shall implement MPCA-recommended erosion and sediment control devices which are deemed applicable by the Chisago County Department of Environmental Services. If applicable, the permittee shall obtain an NPDES Permit, and provide the Department of Environmental Services with the Storm Water Pollution Prevention Plan (SWPPP). Those erosion and sedimentation control measures determined to be necessary shall be installed or implemented prior to construction and maintained in accordance with the SWPPP.
4. Areas of bare ground underneath the panels and in surrounding areas shall be re-vegetated with a low-growing, accepted pollinator-friendly seed mix, and shall be maintained throughout the life of the project.
5. The applicant shall submit a signed / certified landscape plan provided by a Minnesota-licensed landscape engineer or Minnesota-certified arborist verifying that the proposed landscaping will achieve the required height and opacity goals by the end of the third year of the project. The landscaping plan shall include a minimum of three staggered rows of six-foot black spruce trees spaced at 16-foot on center, located outside of the fenced perimeter. The plan shall be submitted for approval prior to building permit.
6. The applicant shall provide a financial surety in an amount sufficient to guarantee that the planting heights and 75% opacity screening goals will be achieved by the end of the third year of the project. Financial surety shall be provided prior to building permit approval.
7. Screening shall be established and maintained for the life of the project, including re-establishment of buffer in the case of decimation or destruction by disease, weather, fire or other peril.
8. The permittee shall install security / perimeter fencing surrounding the facility. The fence shall be agricultural fencing, known as "deer fence" which is of woven wire composition. The fence shall be a minimum of 8' in height and constructed with wooden posts.
9. Perimeter fencing and landscape screening shall be installed prior to issuance of the Certificate of Occupancy and shall be confirmed by county inspection.
10. The permittee is responsible for on-site cleanup of all waste and scrap that is the product of construction, as well as ongoing maintenance of the project property, including disposal of trash, waste, and other detritus, for the life of the project.

11. The project shall be decommissioned in accordance with the approved decommissioning plan. Failure of the permittee to properly decommission the site may result in the issuance of a citation and criminal charges, and/or County seizure of the financial surety and decommissioning of the site. In the event that decommissioning costs exceed the amount of surety, adequate funds shall be collected from the developer, landowner, and/or assessed against the property.
12. The permittee shall provide a financial surety guaranteeing decommissioning in accordance with the plan. The surety shall be provided and maintained by the permittee in an amount equal to or greater than 125% of the developer's estimated decommissioning cost. The surety shall be provided at the time of building permit application and building permit approval shall be conditioned upon receipt and approval of said surety. The permittee shall also provide, at time of building permit application, a detailed estimate to support the estimated cost of decommissioning and corresponding financial surety amount.
13. At time of decommissioning the permittee shall recycle as much of the system's materials as possible and limit disposal of said materials to the fullest extent possible.
14. All activities conducted within wetlands shall be carried out, regulated and/or prohibited in accordance with the provisions of MN Chapter 8420.
15. The permittee shall install silt fencing around all delineated wetlands during construction, particularly where sedimentation due to construction is likely to occur.
16. The permittee shall locate and survey all delineated wetland areas.
17. The permittee shall follow the Minnesota DNR's recommendations for avoiding and minimizing impacts to Blanding's turtle.
18. The project shall include abatement measures (e.g. coniferous vegetation, fencing, enclosure, or other insulating treatments) to direct noise generated by the solar energy system invertors away from existing residential structures located on adjacent properties.
19. Interconnection equipment shall be mounted at grade level whenever possible.
20. The permittee shall work with Xcel Energy to limit the use and quantity of above-ground utility poles to the fullest extent possible.
21. The Interim Use Permit shall be valid for up to 35 years from the date of County Board approval or earlier in the permit term if the solar project as determined by County Staff is deemed satisfactorily decommissioned.
22. Violations of the conditions contained herein shall be cause for the revocation of the Interim Use Permit upon action of the County Board.

Second by Chip Yeager. The motion was approved 7 - 0 with a roll call vote. Ayes: Corbin, McCarthy, Sutcliffe, Yeager, Storm, Chair Johnson, and Whitney. Nays: none.

Old Business:

Tony Zerwas – Bob Boyce, applicant, on behalf of Tony Zerwas, property owner, is seeking approval of the Preliminary Plat of Amador Hilltop Estates. The subject site is 20 acres in size and the proposed plat includes four parcels. The property is in the Agricultural District and located at 41275 Peterson Avenue, Amador Township, S1, T35, R20 (PID# 01.00212.00). Director Schneider provided an update on the Zerwas application that had time extensions to allow the applicant and Amador Township to establish a development agreement. The applicant provided a short letter that an agreement had been reached with the township. Director Schneider indicated that the Board did not need to act on this matter and could wait until the next meeting. The application request

was a preliminary plat that proposed four parcels from a 20-acre site which met all dimensional standards. Frank Storm confirmed with Lin Strong, Township Chair in the audience that an agreement had been reached. John Sutcliffe asked if the public hearing was conducted in January. Director Schneider confirmed the public hearing had been held. **Motion** by Chip Yeager to approve the Preliminary Plat, "Amador Hilltop Estates" at 41275 Peterson Avenue, PID#01.00212.00 for four residential lots with the following condition:

1. Application for a demolition permit shall be submitted to Chisago County for removal of the dwelling on Lot 4 closest to Peterson Avenue as identified by the Applicant for removal and provide a copy of an executed developer's agreement with Amador Township prior to filing for Final Plat.

Kelsey Zaavedra – Kelsey Zaavedra, applicant and owner of Heirloomista, is requesting a Conditional Use Permit to operate a small-scale recreational campground and operate a farmstand as Rural Retail Tourism. The property is in the Agricultural District and located at 40422 Oriole Avenue, Amador Township, S11, T35, R20 (PID# 01.00233.20). Director Schneider provided an update on Ms. Zaavedra's CUP application. The County Board approved a time extension and sent Ms. Zaavedra's application back to the Planning Commission for further review and discussion on solid waste disposal and landscape screening of the campground. Dave Whitney reviewed his conversation with the Code Enforcement Officer and his suggested conditions as provided in a handout. Suggested additional conditions include: drinking water tested every two years, installation of screening of campsite from road and neighbors, applicant has six months from County Board approval of Zoning Ordinance to bring year round living facilities into compliance, not as a caretaker campsite, and failure to meet and/all conditions will make the entire CUP out of compliance. Discussion followed on wells, tiny homes and caretaker living accommodations. Jim McCarthy noted much larger events, e.g. Hay Days, were not required to install screening and a recent campground with several campsites closer to the property line/neighbor's house were approved by the County Board without screening. It would be egregious to ask Ms. Zaavedra to install screening for two campsites for neighbors across the field. County Commissioner DuBose indicated the recently approved campground did have some established screening and County Board indicated the RV campsite could be moved near the caretaker site with additional screening. Discussion followed about establishing policy for one person when it will be applied countywide. Director Schneider reviewed the Zoning Ordinance/standards for a permeant dwelling versus campsite and/or caretaker living accommodations with no standards in relation to enforcement of the zoning ordinance. John Sutcliffe asked if other campgrounds had defined limited time/season for caretakers on the property. Director Schneider indicated larger campgrounds have a clubhouse and smaller family campgrounds may indicate a family member present at all times during use. A caretaker can be outlined in many ways. Discussion followed on wells, drinking water testing and standards, Minnesota Well Index, and professional installed wells. Director Schneider indicated the County Board requested the Planning Commission to review and consider additional enhancement of the sanitary waste/well and enhanced landscaping/screening on the property line. County Commissioner DuBose suggested that, if the Board was going to recommend additional conditions, they should be specific to screening, since it was a concern from a neighbor. **Motion** by Jim McCarthy to add two additional conditions to the Commission's October 7th recommendation: 1. move RV camping site into a less visible site/additional screening location, and 2. conduct well testing. Motion failed with no second. **Motion** by Frank Storm to table until December meeting to allow staff to discuss relocation of RV site to a less visible site and well testing to find a satisfactory compromise with the applicant. Second by John Sutcliffe. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. County Commissioner DuBose indicated the County Board time extension will end the day after December 15, 2021 County Board meeting; therefore, will need a recommendation at the next Planning Commission meeting.

Commercial Shooting Ranges

Director Schneider indicated county attorney's office will be prepared to discuss the draft at the December meeting. Discussion followed on the October 29th Forest Lake Sportsmen Club Tour and notes provided by Dave Whitney. Chip Yeager suggested shooting ranges should be treated similar as a solar project and hold a community meeting with neighbors to address questions and concerns. Dave Whitney added a rifle range with noise reduction standards would not be hard to achieve; however, a trap and skeet range will have problems with noise. There is a demand for the use of shooting ranges. Chair Johnson indicated a Sportsmen Club with education classes is a great approach versus a commercial range. Jim McCarthy reviewed his notes provided on noise standards and expressed the Planning Commission be very specific on noise levels. Discussion followed on noise standards. Chair Johnson indicated the topic will be on the December agenda and requested to have Dave Whitney's and Jim McCarthy's notes reviewed by the county attorney's office and incorporated into the draft.

Zoning Ordinance Review & Update

Director Schneider indicated the Bolton & Menk professional services agreement has been signed and would like to schedule the first work session. Planning Commission Special Work Session will be Thursday, December 9 starting at 6:30 p.m. in the Lower Level Conference Room of the Government Center.

Communications and Reports

County Commissioner DuBose reported the County Board discussed the commercial shooting range draft. Accessory Building ordinance amendment was approved. County Board has been going through labor negotiations and budget review. The County Board had accepted County Recorder resignation and interviews were being held for County Assessor.

ADJOURNMENT: There being no further business, motion by Chip Yeager and second by Kelly Corbin to adjourn. The motion was approved 7 - 0 with a roll call vote. Ayes: Whitney, Corbin, McCarthy, Sutcliffe, Yeager, Storm, and Chair Johnson. Nays: none. Meeting was adjourned at 9:10 p.m.