

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS
April 6, 2023

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, April 6, 2023 at the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator; Kurt Schneider, Environmental Services Director; and Nadia Broome, Office Support Specialist.

Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Commission members was taken. Commission members present: Chris DuBose, Eric Leivian, Chip Yeager, John Sutcliffe, Dave Whitney, Jolene Wille, and Jim McCarthy who was seen and heard at the meeting via electronic means from Cambria Hotel at 1000 Lady Street, Columbia, SC 29201. Absent: none. A quorum was established.

Approval of Agenda – Motion by Chris DuBose to approve the agenda as presented; second by Jolene Wille. The motion passed 7-0. Ayes: Wille, Sutcliffe, Leivian, DuBose, McCarthy, Whitney, and Yeager. Nays: None.

Approval of Minutes – Motion by Jolene Wille to approve the February 16, 2023 work session minutes as presented; second by Dave Whitney. The motion passed 4-0-3. Ayes: Wille, DuBose, Whitney, and Yeager. Nays: None. Abstained: McCarthy, Sutcliffe, and Leivian. **Motion** by John Sutcliffe to approve the March 2, 2023 regular meeting minutes as presented; second by Chris DuBose. The motion passed 6-0-1. Ayes: Leivian, Sutcliffe, Wille, DuBose, Whitney, and Yeager. Nays: None. Abstained: McCarthy.

Receive all Materials and Submittals into Record – Motion by John Sutcliffe to accept all materials and submittals into the record; second by Eric Leivian. The motion passed 7-0. Ayes: Wille, Sutcliffe, Leivian, DuBose, McCarthy, Whitney and Yeager. Nays: None. Materials distributed to the Planning Commission in advance of the meeting for their review included: staff reports with attachments. Copies of all correspondence and meeting materials were made available for the public.

Public Hearings – New Applications

Keith Johnson and Johnson CSG 2, LLC – Coordinator Gervais provided an overview of property owner Keith Johnson and applicant Johnson CSG 2, LLC's request for approval of an Interim Use Permit (IUP) Amendment in order to modify the landscaping materials required for a community solar garden located west of Oasis Road / CSAH 9 and south of 375th Street, Sunrise Township, S28, T35, R20 (PID# 09.00303.10). The original IUP was approved in November 2021 and included a condition of approval which very specifically required the use of black spruce trees. The applicant later determined that this variety of tree was not well suited for the Minnesota climate. The IUP Amendment request was solely for the modification of the variety of tree used for screening purposes. In the application, the applicant proposed the use of a variety of spruce and fir trees in place of black spruce trees. The application materials explained that this requested modification was based on three factors: 1) Ability to achieve required height and opacity goals for the project; 2) Effectiveness of a coniferous mix rather than the narrow black spruce tree; and, 3) The fact that black spruce is not well suited for Minnesota's climate.

The Technical Review Committee met on March 8, 2023 and no concerns were identified. The Sunrise Town Board met on March 23, 2023 and recommended approval "on the condition that only plantings will be varieties of spruce, cedar or fir, and no pine". The extended review period would expire on June 10, 2023.

Gervais concluded by offering a recommendation of approval with conditions, explaining that the proposed conditions were the exact conditions approved by the County Board in November 2021, with the addition of condition no. 1 to clarify that this approval was an Amendment to the original 2021 approval, added language to proposed condition no. 2, again, to address that this was an Amended IUP, and a modification to condition no. 6 (previously condition no. 5) to address the requested Amendment and the Sunrise Town Board's recommendation.

Chair Yeager invited the applicant to address the Planning Commission. Jeremy Meyer, representative for Johnson CSG 2, LLC, stepped forward. Mr. Meyer had nothing to add to Coordinator Gervais' review.

DuBose commented that proposed condition no. 6 referred to "6' black coniferous trees" and asked if it should instead read "6' coniferous trees". Gervais responded affirmatively. Chair Yeager asked the applicant's representative if he was aware of the proposed language requiring the use of Black Hills spruce, Meyer spruce, Norway spruce and Balsam fir varieties, but prohibiting the use of pine varieties. Meyer responded that he was aware of and satisfied with the proposed condition.

Chair Yeager opened the public hearing. With no persons wishing to speak, ***motion*** by Chris DuBose to close the public hearing; second by John Sutcliffe. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager Nays: None.

Chair Yeager sought comments from the Planning Commission. DuBose inquired why the Sunrise Town Board had requested that pine trees not be used. McCarthy explained that when red pines grew up the bottom limbs naturally fell off and white pines were naturally thin. McCarthy added that pine trees were nice trees but not ideal for screening purposes.

Motion by Chris DuBose to adopt Resolution No. PC2023-0401, a resolution recommending approval of an Amendment to an Interim Use Permit allowing a Commercial Solar Energy System within 1,320 feet of an existing commercial solar project on property located at 37304 Oasis Road / CSAH 9 in Sunrise Township, as presented and with one change to delete the word "black" from condition no. 6, leaving just "coniferous"; second by Jolene Wille. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager Nays: None.

Conditions:

1. This Interim Use Permit (IUP) amends and supersedes the IUP granted by the Chisago County Board of Commissioners on November 17, 2021 (original IUP) granting approval to construct and operate a one-megawatt community solar garden located within a ¼ mile of an existing solar array at 37304 Oasis Road / CSAH 9 in Sunrise Township. The sole Amendment reflects a modification of the landscaping materials approved for screening purposes (condition no. 6).
2. 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 herein. Any deviation from the approved project shall require further review by the Planning Commission and approval by the County Board.
3. 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.
4. 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.

5. 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.
6. 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 coniferous trees – including Black Hills spruce, Meyer spruce, Norway spruce and Balsam fir varieties, but no pine varieties – spaced at 16-foot on center, located outside of the fenced perimeter. The plan shall be submitted for approval prior to building permit.
7. 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.
8. 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.
9. 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.
10. Perimeter fencing and landscape screening shall be installed prior to issuance of the Certificate of Occupancy and shall be confirmed by county inspection.
11. 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.
12. 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.
13. 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.
14. 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.
15. All activities conducted within wetlands shall be carried out, regulated and/or prohibited in accordance with the provisions of MN Chapter 8420.
16. The permittee shall install silt fencing around all delineated wetlands during construction, particularly where sedimentation due to construction is likely to occur.

17. The permittee shall locate and survey all delineated wetland areas.
18. The permittee shall follow the Minnesota DNR's recommendations for avoiding and minimizing impacts to Blanding's turtle.
19. 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.
20. Interconnection equipment shall be mounted at grade level whenever possible.
21. The permittee shall work with Xcel Energy to limit the use and quantity of above-ground utility poles to the fullest extent possible.
22. 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.
23. Violations of the conditions contained herein shall be cause for the revocation of the Interim Use Permit upon action of the County Board.

Sunrise Homes, Inc. – Coordinator Gervais provided an overview of the request, explaining that property owner Sunrise Homes, Inc., represented by Vincent Charles, was seeking approval of the Preliminary Plat of Zackary Meadows, involving the creation of three lots from a 33.91± acre tract in the Agricultural (AG) District. The property was generally located south of Rush Point Drive / CSAH 7 and east of Anchor Ave, Nessel Township, S34, T37, R22 (PID# 06.00702.10). Gervais explained that the undeveloped subject site was recently split from PID 06.00702.00 through the Minor Subdivision process and that the site included an existing conservation easement area in NE corner of subject site, covering 8.6 acres. Gervais added that the entire easement area was proposed to be located within a single lot, as requested by the Soil and Water Conservation District (SWCD). As proposed the plat showed three new parcels, with all parcels meeting and exceeding dimensional requirements for the AG District.

The Technical Review Committee met on March 8, 2023. Gervais commented that the SWCD provided recommended conditions of approval, including the conservation easement being situated on a single parcel, the installation of signs to identify the easement boundaries, and transfer of the easement to the new property owner(s). Gervais also commented that all driveways would need to be located on Anchor Avenue rather than CSAH 7, and, due to seasonal constraints, the soils and wetland delineation could not be verified but would be required prior to Final Plat. The Nessel Town Board met on March 14, 2023 and recommended approval with no conditions. The review period would expire on June 29, 2023.

Gervais concluded by stating that staff believed that the proposed Preliminary Plat complied with and was consistent with the intent of the County's Zoning and Subdivision Ordinances and recommended approval with conditions.

Chair Yeager invited the applicant to address the Planning Commission. Nick Charles, representing Sunrise Homes, Inc, stepped forward. Mr. Charles had nothing to add to Coordinator Gervais' review.

Chair Yeager sought comments from the Planning Commission. With no comments, Chair Yeager opened the public hearing. With no persons wishing to speak, ***motion*** by Jolene Wille to close the public hearing; second by John Sutcliffe. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager
Nays: None.

Chair Yeager inquired about the type of signage recommended by the SWCD. Gervais explained that she didn't have the sign specifications and added that the SWCD would work directly with the property owner on the design and acquisition of signs. DuBose commented that he had seen those types of signs before and they were approximately the size of a sheet of paper and identified the area as a conservation area.

Motion by Dave Whitney; second by Eric Leivian to adopt Resolution No. PC2023-0402, a resolution recommending approval of the Preliminary Plat of Zackary Meadows, with conditions as presented. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager Nays: None.

Conditions:

1. The Preliminary Plat of Zackary Meadows is approved per plat drawing dated signed January 19, 2023. Any significant deviation from the approved plat drawing, as determined by the Department of Environmental Services, shall require further review by the Planning Commission and approval by the County Board.
2. No access shall be granted from Rush Point Drive / CSAH 7.
3. The existing State of Minnesota Reinvest in Minnesota perpetual conservation easement, recorded as Document No. 289866, shall be situated on no more than one lot and there shall be no modifications to the layout of the easement area.
4. The property owner shall cause the preparation of a survey or otherwise accurately identify the existing State of Minnesota Reinvest in Minnesota perpetual conservation easement boundaries and properly mark, with SWCD approved signage, all corners and at least one sign between corners of the easement. The signs shall be installed at a height of no less than six (6') feet above ground level.
5. The property owner shall coordinate with Chisago SWCD to transfer the existing State of Minnesota Reinvest in Minnesota perpetual conservation easement to Sunrise Homes, Inc. and, if and when Sunrise Homes, Inc. sells the lot which includes the easement, Sunrise Homes, Inc. shall again coordinate with Chisago SWCD to transfer the easement to the new landowner(s).
6. The County shall verify soils / the soils report when ground conditions allow and verification must be completed prior to submission of request for Final Plat.
7. The County shall verify the wetland delineation when ground conditions allow and verification must be completed prior to submission of request for Final Plat.
8. The applicant shall obtain all necessary and applicable permits from Federal, State, and County jurisdictions for any wetland impacts prior to commencement of development.
9. The applicant shall submit request for Final Plat within one year following approval of the Preliminary Plat unless an extension of time is requested by the applicant and granted by the County Board upon recommendation of the Planning Commission.

Maxwell & Allison Kleven – Coordinator Gervais provided an overview of property owners Maxwell & Allison Kleven's request for an Interim Use Permit (IUP) allowing an accessory structure without the presence of a principal use structure and allowing sanitary facilities within the accessory structure on 13.26± acres in the Agricultural (AG) District. The property was located at 41XXX Ferry Road, approximately 1/3 mile north of the intersection of CSAH 9 and Ferry Road, in Sunrise Township, S5, T35, R20 (PID# 09.00035.10).

Gervais explained that the 13.26-acre undeveloped subject site was zoned Agricultural (AG) District, adding that the property owners intended to construct a dwelling in the future but were uncertain of the timeframe. The proposed 40' x 64' (2,560 sf) accessory structure would be used for personal storage only and not for

commercial purposes. The proposed accessory structure would be approximately 152' from the roadway (Ferry Road) / east property boundary, more than 500' from the west property boundary, more than 240' from the north property boundary, and more than 400' from south property boundary. Gervais stated that all proposed setbacks exceeded minimum requirements.

The Technical Review Committee met on March 8, 2023 and did not identify any issues or concerns with the request. The Sunrise Town Board considered the request on March 23, 2023 and recommended approval "for a period of 12 months with the condition that the water and septic are not installed until the building permit for the house is issued." Gervais cautioned the Planning Commission against recommending approval of the IUP with the conditions recommended by the Town Board being that the Zoning Ordinance allowed the proposed uses with issuance of an IUP. The review period would expire on April 29, 2023.

Gervais concluded by stating that staff believed the proposed Interim Use Permit (IUP) complied with and was consistent with the intent of the County's Zoning Ordinance and offered a recommendation of approval with conditions.

Chair Yeager invited the applicants to address the Planning Commission. Property owners Maxwell & Allison Kleven stepped forward. Neither had anything to add to Coordinator Gervais' review.

Chair Yeager sought comments from the Planning Commission. With no comments, Chair Yeager opened the public hearing. With no persons wishing to speak, ***motion*** by Jolene Wille to close the public hearing; second by Eric Leivian. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager. Nays: None.

Whitney inquired if the applicants had any intention of living in the pole barn while their house was being built. M. Kleven responded that they had no intention of living in the accessory structure. Whitney inquired about the proposed septic system. M. Kleven explained that it would be a holding tank with drain field, adding that the holding tank would be located between the proposed house site and the proposed pole barn. Whitney inquired if the property owners were going to utilize another holding tank for the proposed house or if they intended to install a full septic system. M. Kleven commented that they would prefer a single septic system to be used by both the pole barn and house. Whitney commented that the request only included approval for a toilet and a sink, and inquired if the property owners saw need for a shower in the future. M. Kleven stated that they had no intentions of installing of a shower in the accessory structure. McCarthy stated that he would be supporting Sunrise Town Board's recommendation, commenting that he believed a porta-potty would meet the needs of the property owners until their house was constructed. McCarthy added that he didn't think the proposed septic system would function properly with minimal use.

Motion by Chris DuBose; second by Dave Whitney to adopt Resolution No. PC2023-0403, a resolution recommending approval of an Interim Use Permit allowing an accessory structure and sanitary facilities within said accessory structure on property identified as PID 09.00035.10 in Sunrise Township, with findings of fact and conditions presented. The motion passed 6-1. Ayes: Whitney, Leivian, Sutcliffe, Wille, DuBose, and Yeager. Nays: McCarthy

Public Hearings – Continued Hearings – None

Old Business – None

New Business – None

Communications and Reports

County Board Liaison Report / Update – Director Schneider explained that Commissioner Greene was unable to attend the meeting and offered a brief County Board update. Schneider stated that the County Board considered the Preliminary Plat of Carlson Lake Overlook at its April 5, 2023 meeting and ultimately approved the plat on a 3-2 vote. Chair Yeager inquired about the Board's objections to the plat. Director Schneider commented that there were concerns related to cluster development standards, including the open space dedication as part of the Carlson's Lake Estates cluster development, and testimony from neighboring property owners.

Miscellaneous – Whitney commented that Planning Commission tours typically did not include proposed plat sites and he believed there would be benefit in visiting some of these sites if the proposed plats were complicated or presented concerns. Whitney suggested that the Commission discuss whether or not to include these sites in future tours. In response, Coordinator Gervais commented that staff was not opposed to visiting plat sites and agreed that there may be value. The Commission briefly discussed how best to determine which sites to visit, and, ultimately, it was the consensus of the Commission that if a Commissioner felt it was necessary to visit a specific site, they would notify staff, and the Chair would make the final determination on which sites to include on the tours.

Wille commented that she was unable to attend Tuesday tours due to her work schedule and asked if it would be possible to change the tour schedule. Coordinator Gervais stated that the tour schedule was adopted annually as part of the meeting schedule and any change for 2023 would require an amendment to the adopted 2023 meeting schedule. **Motion** by Chris DuBose; second by John Sutcliffe to initiate a review of the 2023 meeting schedule with the purpose of considering a change to tour dates. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager. Nays: None.

Director Schneider informed the Planning Commission of recent changes within the Environmental Services Department, including the retirement of Office Manager Patty Perreault, the promotion of Diane Sander from Office Support Specialist to Office Manager, and the hiring of Nadia Broome as Office Support Specialist. Commission members welcomed Broome.

Chair Yeager indicated that the upcoming meeting schedule included a work session on April 20, 2023, and he shared that he would not be able to attend. After a brief discussion about which members were and were not able to attend, the consensus of the Commission was to cancel the April 20, 2023 work session and not reschedule. **Motion** by Chris DuBose; second by Jolene Wille to cancel the April 20, 2023 work session and not hold another work session until the regularly scheduled May 18, 2023 work session. The motion passed 7-0. Ayes: Whitney, Leivian, McCarthy, Sutcliffe, Wille, DuBose, and Yeager. Nays: None.

Adjourn Meeting – Motion by Chris DuBose; second by John Sutcliffe to adjourn the meeting. **Motion passed** 7-0. Ayes: Wille, Sutcliffe, Leivian, DuBose, McCarthy, Whitney, and Yeager. Nays: None. The meeting was adjourned at 7:44 p.m.



Chip Yeager
Chair

ATTEST: 

Beth Gervais
Land Services Coordinator