

**MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JANUARY 15, 2019
MEETING ROOM B - THIRD FLOOR COURTHOUSE**

Members Present: Tom Jensen, Amos Baer, Randy Schellack, Bill Davis, Tim Brendemuhl, Jenny Mongeau, Andrea Koczur

Members Absent: Curt Stubstad, Mark Klevgaard, Dan Langseth, Joel Paulsen

Others Present: Hali Durand, Steve Beitelspacher, Rita Rueckert, Emma Notermann, Steve Larson, David Watts, Jane Qualey, Jim Lee, Joanne Lee, Todd Breidenbach, Tracy Breidenbach, Russ Menolt, Danny Kvien, Joe Prosby

APPROVAL OF AGENDA

On motion by Randy Shellack, seconded by Bill Davis, and unanimously carried, the Planning Commission approved the Agenda with modification of moving the Breidenbach item to the first order of business.

APPROVAL OF MINUTES

On motion by Davis, seconded by Tom Jensen, and unanimously carried, the Planning Commission approved the December 18, 2018 Minutes as presented.

CITIZENS TO BE HEARD

There were no citizens to be heard on matters not on the Agenda.

TODD AND TRACY BREIDENBACH – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval after-the-fact to construct a cold storage pole building on parcel 06.029.3600, in the West Half of the Southwest Quarter of Section 29, Township 138 North, Range 47 West, Elmwood Township.

On motion by Tim Brendemuhl, seconded by Shellack, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, stated on November 1, 2018 a building permit application was requested to construct a pole building at a residential lot. It was later discovered that the use was determined to be commercial, and an after-the-fact request for a Conditional Use Permit was submitted. Public comment was received stating that the use appears to be more industrial than commercial. There is no formal industrial land use definition in our Development Code. There was a previous building constructed on the parcel which was also noted to be residential but is being used as commercial. Durand is also looking for a copy of the written township approval.

Todd Breidenbach advised that they were not aware of the Conditional Use Permit requirement when they purchased the property 2 years ago. He stated that he has received several permits: for access/culvert approach, sewer, construction of previous shop/storage building, construction of current storage building, approval from township and permits for cranes. The permits for the

cranes were for road permits. He believed he was in compliance with all issues until learning of the zoning issue.

The chair asked if anyone else wanted to speak for or against the proposal.

On motion by Jenny Mongeau, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed the public hearing.

Several Planning Commission members commented about how nicely the Applicants have cleaned up the property and improved the appearance of the area.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.

On motion by Davis, and seconded by Mongeau, and unanimously carried, the Planning Commission approved the Conditional Use Permit for a commercial storage building.

USS BUCKAROO SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval to construct and operate a community solar garden on parcel 27.004.3000, in the Northwest Quarter of Section 4, Township 140 North, Range 46 West, Spring Prairie Township

On motion by Shellack, seconded by Davis, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, indicated there are a few of the land owners, as well as representatives from US Solar, in the audience,. All 5 proposals are located within the Agricultural General Zoning District. Some of the applications also have adjacent commercial uses for communication towers. The Zoning Districts on the Application are allowed by a Conditional Use and meet the requirements of the Development Code, more specifically the recently passed Renewable Energy Code. All applications meet every requirement of the Renewable Energy Code and Durand stated that she felt the Applicant did a fantastic job of providing the information. Information has been submitted and requested from the Clay County Highway Department for each application. The Highway Department recommends that the Applicant meet all permits necessary for construction, including but not limited to, Clay County and the Minnesota/North Dakota Act of Permits. The Buckaroo application is the only request located adjacent to County Highway 26; all others are along State Highway 9.

Amos Baer asked if the township approval should be part of the condition; Durand responded she felt it should be included.

Jane Qualey represented US Solar and gave general information which applies to all 5 applications. The solar garden applications reviewed tonight are capable of 1 megawatt of power, which is enough energy to power approximately 225 homes. The energy produced by these solar gardens will be transferred directly to existing Xcel Energy distribution lines. Each solar garden will be pollinator friendly habitat with native grasses, which includes air, soil and water to promote local wildlife.

In 2017, US Solar reached out to landowners of suitable soil types in Clay County. This was

before the establishment of the Renewable Energy Code being adopted. Qualey states there was tremendous support among the County residents to establish solar energy for their community. Because there was not a current Ordinance for solar energy, they were only able to sign 5 landowners at that time. They still have many others showing interest and support for future growth.

A 15-foot access road will be required at each site and access permits will be secured. Qualey gave information on the construction details and the connections to Xcel Energy distribution lines. Most of the active construction would be completed within an 8-week time frame. They will be installing approximately 4000 modules on single access trackers which rotate the modules to follow the sun. They are approximately 6 feet in height. There are no hazardous materials used. She states that they welcome suggestions for any local companies to utilize for the natural habitat landscaping. There will be a schedule for routine quarterly checks on the site, which includes spraying for weeds as needed. They have a detailed decommissioning plan. They have 25 years of secure agreement which includes an up-front surety. After 12 months of non-production, the project manager removes all equipment at their cost, as specified in the lease. Removal must be completed within 12 months and restoration of land and soils must be completed as required. Recycling the equipment is expected to exceed the cost of removal. In the event of destruction, such as a tornado, the entire installation is covered by insurance. Decommissioning is established at \$20,000 and would be \$2,000 per year for years 16-25 so decommissioning would be fully funded by year 25, which would be the earliest year it would be considered for termination.

Amos Baer asked about changing the decommissioning time line to years 5-25 at \$1,000 per year. Qualey confirmed decommissioning reserve for the years 6-25. Baer referred to an Xcel Energy exhibit included in the application information for clarification. Tom Jensen asked about snow removal on the solar panels. Qualey indicated that the panels do create their own heat and tilt to follow the sun. They can remotely monitor them and are able to remotely tilt them as needed. If these actions do not remove the snow, there would be people sent out to clear them as needed, not longer than 24 hours after a snow issue is identified.

Qualey explained that there is limitation of 1-megawatt per developer per area per Xcel Energy's rules. These limitations are due to several factors: substations, power lines, capacity, control of program growth.

Hali Durand stated USS Solar would need to request building permits for each community solar garden and the township would also need to give approval on each building permit.

James Lee, land owner, stated his approval for the community solar gardens.

On motion by Shellack, seconded by Jensen, and unanimously carried, the Planning Commission closed the public hearing.

Mongeau confirmed with Steve Larson how the county would want the surety bond paid and the decision was for credit. Beitelspacher stated that a performance bond, which is essentially an insurance policy, could also be utilized in this situation. Koczur stated that the township levels prefer performance bonds. It was determined that a performance bond should be required.

On motion by Davis, seconded by Brendemuhl, and unanimously carried, the Planning Commission approved the request for the Conditional Use Permit with the requirement that all local permits are secured and approved.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.

USS HORNE NORTH SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval to construct and operate a community solar garden on parcel 08.015.4800, in the East Half of the Southeast Quarter of Section 15, Township 141 North, Range 46 West, Flowing Township.

On motion by Koczur, seconded by Shellack, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, stated there is no different information on this application than from the previously discussed Buckaroo application. The Board discussed the Findings of Fact as they would apply to all applications. Aerial photos were viewed to determine the locations of the application locations in Spring Prairie and Flowing Townships.

Joe Prosby, neighboring land owner, confirmed the location of the application to his property.

On motion by Jensen, seconded by Davis, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions and none of them warranted further discussion.

On motion by Mongeau, seconded by Shellack, and unanimously carried, the Planning Commission approved the Conditional Use Permit for USS North Horne Solar LLC.

USS HORNE SOUTH SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval to construct and operate a community solar garden on parcel 08.027.0170, in the South Half of the North Half of Section 27, Township 141 North, Range 46 West, Flowing Township.

On motion by Davis, seconded by Brendemuhl, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, stated that all previous information applies equally to this application.

Qualey stated that they would prefer an escrow account or letter of credit over a performance bond for being funded over a length of time. Decision was made to complete all application hearings and then refer back to the decommissioning funding proposals.

On motion by Brendemuhl, seconded by Shellack, and unanimously carried, the Planning Commission closed the public hearing.

Location of the application site was reviewed on aerial photo displayed by Durand.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.

On motion by Davis, seconded by Brendemuhl, and unanimously carried, The Planning Commission approved the Conditional Use Permit with conditions of: Decommissioning payment in a form acceptable to County Administrator; Years 6-25 payable at \$1,000 per year for decommissioning; Meet all County and Township permits and requirements.

USS JJ CLAY SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval to construct and operate a community solar garden on parcel 27.004.3500, in the Southwest Quarter of Section 4, Township 141 North, Range 46 West, Spring Prairie Township.

On motion by Jensen, seconded by Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, states this location is in the north half of the southwest quarter. Applicants are present for this application.

On motion by Davis, seconded by Jensen and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.

On motion by Brendemuhl, seconded by Mongeau, and unanimously carried, the Planning Commission approved the Conditional Use Permit with conditions of: Decommissioning payment in a form acceptable to County Administrator; Years 6-25 payable at \$1,000 per year for decommissioning; Meet all County and Township permits and requirements.

USS KVPV SOLAR LLC – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval to construct and operate a community solar garden on parcel 08.034.2500, in the North Half of the Northwest Quarter of Section 34, Township 141 North, Range 46 West, Flowing Township.

On motion by Shellack, seconded by Jensen, and unanimously carried, the Planning Commission opened the public hearing.

Hali Durand, Planning Director, stated she has no new comments on this application.

There were no comments from the audience when solicited by Chair Baer.

On motion by Brendemuhl, seconded by Davis, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed by the Planning Commissioners as they pertain to the requested permit. All the items can be addressed with conditions and none of them warranted further discussion.

On motion by Shellack, seconded by Koczur, and unanimously carried, the Planning Commission approved the Conditional Use Permit with conditions of: Decommissioning payment in a form acceptable to County Administrator; Years 6-25 payable at \$1,000 per year for decommissioning; Meet all County and Township permits and requirements.

Chair Baer returned to reopen Hearing #2 for USS Buckaroo Solar LLC and Hearing #3 for USS Horne North Solar LLC.

Motion made by Mongeau to reopen Hearing #2 for USS Buckaroo Solar LLC, seconded by Koczur, and unanimously carried, to address the payment parameters for decommissioning.

The Planning Commission agreed to apply the same financial conditions to all five (5) of the USS Solar applications.

Motion made by Mongeau, seconded by Shellack, and unanimously carried, the Planning Commission closed the public hearing.

Motion made by Davis, seconded by Brendemuhl, and unanimously carried, the Planning Commission approved the Conditional Use Permit with conditions of: Decommissioning payment in a form acceptable to County Administrator; Years 6-25 payable at \$1,000 per year for decommissioning; Meet all County and Township permits and requirements.

Chair returned to reopen Hearing #3 for USS Horne North Solar LLC.

Motion made by Mongeau, seconded by Koczur, and unanimously carried, the Planning Commission re-opened the public hearing.

It was affirmed that the same conditions be applied to the approval of this application as were applied to the prior applications on this date.

Motion made by Mongeau, seconded by Shellack, and unanimously carried, the Planning Commission closed the public hearing.

Motion made by Koczur, seconded by Brendemuhl, and unanimously carried, the Planning Commission approved amending the previous Conditional Use Permit conditions.

Motion by Koczur, seconded by Shellack, and unanimously carried, the Planning Commission approved the Conditional Use Permit with conditions of: Decommissioning payment in a form acceptable to County Administrator; Years 6-25 payable at \$1,000 per year for decommissioning; Meet all County and Township permits and requirements.

Other Business:

Planning Director Durand introduced Emma Notermann, the new Planning Technician.

Durand stated in regard to the solar garden projects, she also wanted to note 50 acres of pollinator friendly habitat will be developed with these applications.

She also acknowledged and thanked Attorney Steve Beitelspacher for his service as this will be his last meeting with Clay County.

Recognition of Service / Term Expirations – Tom Jensen

Chair Baer presented Tom Jensen with a plaque in recognition of his 3 terms of service to the Planning Commission. Applicants are currently being sought for his replacement of representation of incorporated areas of the County on the Planning Commission.

Mongeau asked about voting for new officers. Election of new Board officers will be held at the February meeting.

Adjourn:

On motion by Shellack, seconded by Davis, the meeting adjourned at 8:13 p.m.

Mark Klevgaard, Planning Commission Secretary