

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS

March 5, 2020 - **DRAFT**

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, March 5, 2020 in the County Board Room of the Government Center.

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

The Chair McCarthy 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: Jim McCarthy, Frank Storm, John Sutcliffe, Shellene Johnson, Dave Whitney, Jim Froberg, and Chip Yeager. Ex Officio: County Commissioner Chris DuBose. A quorum was established with members present.

APPROVAL OF AGENDA – Motion to approve the agenda by Jim Froberg. Second by John Sutcliffe. Motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the February 6, 2020 minutes by Frank Storm. Second by Dave Whitney. Motion carried unanimously. Motion to approve the February 20, 2020 Work Session minutes by Frank Storm. Second by Jim Froberg. Motion carried unanimously.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD - Motion that all applications, submittals, reports, and other materials were adopted into the record by reference made by Chip Yeager. Second by Shellene Johnson. Motion carried unanimously. Meeting materials distributed in advance to the Planning Commission for their review included: Staff Reports, Public Hearing Staff Memo with Solar Ordinance Amendment, and Staff Memo with Rules of Order and By-Laws. Copies of all correspondence and meeting materials were made available on a table at the entrance to the hearing room.

New Business:

Matt Crescenzo

Coordinator Jagoe presented background information on the Crescenzo Conditional Use Permit (CUP) amendment. Mr. Crescenzo had a CUP approved in 2012 on his 15 acre parcel located in the Agriculture District approximately ¼ mile from the County line on Olinda Trail. The existing CUP was for a machine shop home occupation with a maximum of two employees. The amendment is seeking to increase the number of employees and use of a second accessory structure for business. Existing structures on the parcel include: single family dwelling, detached garage, pole building, and second pole building. In November 2019 an Ordinance Amendment was passed defining Major Home Occupation and Minor Home Occupation. The current CUP would fall under the Minor Home Occupation. The request of increasing the number of employees and expanding the business into the second accessory structure would be under the Major Home Occupation. Mr. Crescenzo's application discussed the addition of an education classroom for 18 participants to be used twice a month. The 18 participants would require a text amendment to the ordinance. Final inspection has not been completed for the building. The Building Official will verify the building is compliant with state building code for approved use. The building permit will need to be amended since a breezeway between the buildings and bathroom was added. The additions constitute work outside of the project scope of the building permit. A licensed septic designer will be required to evaluate the current septic system to ensure it is sized for the expanded business. Landscape screening will need to be installed on the north side of the accessory building that Mr. Crescenzo removed during construction along with the removal of storage containers. Technical Review was held on February 12, 2020 with no identified impacts. Township recommended approval with a condition not to exceed eight employees. Staff recommendation is for approval of the CUP with twelve conditions.

Mr. Crescenzo was present and commented the trees were removed on the north side of the building for the entrance of the new accessory building and questioned where to install the replacement trees. The existing septic system was designed for 2,000 gallons a day and daily use has been only 200 gallons. Mr. Crescenzo will work with staff on getting the building permit updated for the breezeway and bathroom. Mr. Crescenzo described the education classroom and excitement from teachers on this proposal. His concern was limiting the classroom size and how that would impact a class size coming from the school. Frank Storm had questions on the extra bathroom, fire protection systems, emergency exits, storage, and Mr. Crescenzo's intentions on relocating to an industrial park. Mr. Crescenzo indicated the home occupation was an incubator with limited employees and limited capital, which has made it impossible to make the move to an industrial park. John Sutcliffe questioned on parking for employees, school buses and location of the dumpsters. Jim Froberg stated he liked the idea of working with students and the high school for teaching a trade. Shellene Johnson questioned if the classes were only for the high school or for profit along with the location of storage containers. Mr. Crescenzo indicated he was open for profit and raising awareness of basic and advanced metal training. Storage containers are screened behind rows of evergreen trees. Coordinator Jagoe indicated Mr. Crescenzo's application only indicated he was seeking to amend his CUP for additional employees and outdoor storage use. It was the narrative in his application that discussed the classroom and teaching students. A text amendment will need to be applied for by Mr. Crescenzo if he would like to have more than 10 students in the classroom. Staff set conditions to help not burden or over intensify the site. Dave Whitney questioned the number of employees with full/part time statues in addition to a more detailed classroom description. For clarification it was stated, employees are not under an accumulated hours but counted per employee regardless of the number of hours they work. Mr. Crescenzo indicated he would come back to amended the CUP if he needed additional employees or would move on. Classroom will have desks with computers to learn about the input/software, ability to watch a presentation and demo machine. Chair McCarthy opened the public hearing.

Angel Permaloff – 25310 Olinda Trail, I support our local business owner and helping him launch into a larger business. He does a fantastic job keeping the property clean. I never knew he had a business until his first application.

Motion by Frank Storm to close the public hearing. Second by John Sutcliffe. Motion carried unanimously. Chair asked for additional questions and comments from the board. Dave Whitney questioned the need for replacing the trees for the new entrance on the north side. Shellene Johnson indicated she would like to see fencing or screening around the dumpster, storage containers removed, keep the classroom under 10 individuals and ensure the septic system is adequate. Chip Yeager asked for clarification on the employees. Coordinator Jagoe indication it would be a maximum of eight employees which could be full time, part time, on site, or off site. Township had recommended up to eight employees. Frank Storm disagreed with the rewrite of the ordinance since it does not comply with sections of the Comprehensive Plan and he does not agree with this application. Chair McCarthy questioned the waste management for the site. Jim Froberg asked Mr. Crescenzo if he agreed to the findings in the report. Mr. Crescenzo indicated the conditions are fair; however, he would like to get rid of screening. **Motion** by Jim Froberg to approve the CUP amendment with changes of the conditions as presented by staff by modified that additional screening on the north side was not needed of the accessory building and require additional fencing/screening on two sides of the dumpster. Second by Chip Yeager. The motion passed with Dave Whitney, Shellene Johnson, Jim Froberg, John Sutcliffe, and Chip Yeager in favor. Opposed were Frank Storm and Jim McCarthy.

Conditions:

1. This is a Conditional Use Permit for a Major Home Occupation to operate a machine shop and a classroom for machining in accordance with Section 4.04.C of the Chisago County Zoning Ordinance.
2. The days and hours of the operation are Monday through Saturday from 7 AM to 7 PM year round.
3. There shall be no more than two educational classes held a month from 5 PM to 7 PM.

4. The educational class size shall not exceed 10 participants/students at any one time.
5. There can be no showroom, nor retail customer traffic to the site.
6. All work, except loading and unloading of material, must be conducted within the two detached accessory structures.
7. The use must conform with the relevant criteria of Section 4.04.C of the Chisago County Zoning Ordinance as follows:
 - a. Only those persons residing in the home and up to eight employees may be employed in the home occupation.
 - b. Signage can consist of no more than one (1) single or double-faced sign with a minimum area of sixteen (16) square feet per side in the AG District.
 - c. No outdoor display or storage of goods or materials is permitted.
 - d. The home occupation is permitted one company flatbed truck and one flatbed trailer to be stored in the designated area as identified on the site plan as "employee parking".
 - e. The business cannot generate sewage of a nature or type that cannot be treated by a standard on-site sewage system or hazardous wastes without an approved plan for off-site disposal.
8. Verification and approval by the Building Official that the construction work that is commencing falls within the project scope for which the building permit was issued. The Applicant shall be required to amend the building permit to include any work that the Building Official determines to be beyond the building plan approved. Construction must be completed in a manner compliant with the State Building Code, and issuance of a Certificate of Occupancy on the second accessory building specifying allowed occupancy of the home occupation use as described herein.
9. Screening by means of a fence to be installed on north and west sides of the dumpster.
10. The permit holder must notify the County annually that the activity permitted by the CUP is ongoing, and the activities being conducted continue to adhere to the conditions of approval.
11. The County will require documentation from a licensed septic designer stating the existing septic system is sized for the business with the number of employees and students/participants as approved.
12. Removal of storage containers shall be completed prior to issuance of the Certificate of Occupancy on the second accessory structure.

Findings of Fact

The home occupation as proposed is consistent with the County's Comprehensive Plan goals and intentions within the Economic Development Element of the plan. Following the review of the Technical Review Committee and Planning Staff, the expanded home occupation as described is determined to be in compliance with the Zoning Code purpose and intent for a Major Home Occupation.

Mark Holl

Coordinator Jagoe presented background information on the Holl preliminary plat application for Molly Estates. The plat would have five lots out of a 30 acre track that is zoned Rural Residential I (RRI). The parcel is surrounded with street frontage and dedicated right of way on all four sides. Preliminary plat layout displayed lots ranging 5 - 6 acres. RRI minimum requirements for a lot size in one acre. Acacia Trail is a County Road with a shared access lots 2 and 3. Mr. Holl will contact the State of MN for access of lot 1 to 515th Street. Township road 512th will be the access to lots 4 and 5. Olson Drive is on the east side of the property with abutting wetlands so development is not possible on the end of the lots. A through lot is a lot with frontage on two parallel streets. Zoning ordinance prohibits through lots. Olson Drive would not be an approved street for the township and is unimproved. The plat is not creating any new streets. Lot 3 was a concern with the lot width of the rear yard setback. A survey will be needed to verify compliance of setback prior to final plat approval. Field verification of soil borings will be conducted in spring. Nessel Township approved with no conditions on February 11, 2020. Plat review committee met on February 12, 2020 with no condition or environmental impacts.

Mr. Holl was present to discuss the plat. Board members questioned on the frontage and shared access of the lots. Coordinator Jagoe reviewed the Minnesota Department of Natural Resources (DNR) access on 515th Street with private lots south of the DNR access on Olson Drive and indicated most likely the county would not grant another access on Acacia Trail. Mr. Holl reported he has received a letter from DNR indicating no conflict. Chair McCarthy opened the public hearing.

Michael Zandlo – 51659 Acacia Trail, had concerns of traffic backing up at the public access on Rush Lake during the ice fishing season. When the road is icy it is a challenge going up and down. At one time, there was a discussion on placing a cul-de-sac near the public access, which in his opinion would be filled with snowmobiles. I am not against building houses, but residents living on lot 1 with access on 515th Street will run into problems with parking and a busy DNR lake access.

With no additional person wishing to speak, motion by Jim Froberg to closed the public hearing. Second by Frank Storm and carried unanimously. Each Planning Commission member was asked for additional questions and comments. **Motion** by Frank Storm to approve Preliminary Plat “Molly Estates” for five residential lots as outlined in Staff’s report and subject to:

1. Satisfactory field verification of soil borings when weather permits; and
2. Lot 3 is modified to reflect compliance with lot width requirements prior to final plat; and
3. Work with Minnesota Department of Natural Resources for access on 515th Street for Lot 1.

Second by John Sutcliffe. Motion carried unanimously.

Section 7.31 - Solar Energy Systems

Coordinator Jagoe provided history on what the Planning Commission has worked on for the solar ordinance with recommendations by the County Board that were inserted into the Solar Energy Systems Ordinance. Coordinator Jagoe provided three options on how to proceed following the closing of the public hearing. **Motion** by Frank Storm to open the public hearing and have board discussion following the hearing. Second by Chip Yeager. Motion carried unanimously.

Paula Fitzgerald, Novel Energy Solutions – 2303 Wycliff Street, Chisago County should encourage the use of renewable energy. Proposal before you would make installing solar gardens extremely difficult. This would impact the smaller projects that we are trying to promote, not the large solar projects. Clustering of solar projects make sense for land use. If you are only going to allow one garden per landowner, the County is removing the effectiveness of clustering for land use. The goal with zoning is to cluster similar land use. The 735 ft setback from County Roads and State Roads is arbitrary and nothing to do with safety. Chisago County is unique with the installment of a substation and the community should be able to benefit from having it. It would have a cost savings to the community, benefit to the landowners, no environmental impacts, and additional tax revenue. I request the Board does not approve the ordinance as proposed.

Sam Falk, Novel Energy Solutions – 2303 Wycliff Street, I have a couple concerns on the proposed ordinance. The ordinance would have restrictions that do no support economic growth. Solar does not emit gases, is recyclable, and has limited leaching. Panels are built strong and have been known not to break with an 80 mph fastball. Farm prices are so low and I often hear it is difficult for a farmer to break even. Solar helps keep farming sustainable. Solar gardens add pollinator habitat. I believe Chisago County has a solid ordinance which does protect the health and safety of the community, but I do not support the proposed changes.

Joseph Brown, Novel Energy Solutions – 1509 Albemarle Street, I would like to look at the environmental aspect and the land under the panels. The installation of native plants underneath the solar panels help pollinators and support bee and monarch butterfly populations. It has low maintenance with no need for mowing. Solar sites provide clean energy and native plantings. By using pollinators on solar sites, we are trying to replenish the dropping bee population in our struggling ecosystem. Native plants reduce soil

erosion, do not need pesticides or fertilizer which help promote clean water runoff, and improve wildlife. I understand the concerns with the solar panels, but they are built to handle a lot and not leach into the ground. Research is being done on solar sites and are generally found to be good for the environment.

Scott Neitzel – 15336 Afton Boulevard S, I have a project and working with Xcel. My sons and I see solar systems in Washington County which appear to be closer to road. I am excited about solar for the next generation. I like the pollinators since my concern was maintenance/mowing. My concern is with the setbacks and impacts to projects already taking place. When I rent my property for farming, I did not get any profit, but went into debt. For me, it is a nice incentive for getting my kids through college. I would support some modification to the proposed ordinance or for projects are that in the process.

Sheldon Johnson – 14650 River Road, I live in Amador Township and considering putting land into a solar program. With the setback 735 ft it is over half of a 40 which makes it really difficult and in my case pretty much eliminates my land for a solar project. Solar projects by the roads do not look bad. Usually the back of a property is better for wildlife, there is no place for the wildlife with fencing. This is bad and would request the board to reconsider the setbacks.

Keith Johnson – 15460 Little Lake Road, I have solar projects. My concern with this ordinance is that it has created a situation of “the have” and “have nots” with the setbacks. Solar projects make people accidental environmentalist with the pollinator plantings. I moved here in the late 80’s and chose farming as a profession. A person could split land into just about anything and I use to be a person who thought, “Not in my backyard.” I started working with the retired Zoning Administrator and this should not be decided with just a small group of people. It should be discussed county wide through a series of community meetings. I have switched my views from a “not in my backyard” and “I don’t want to see it” to messing with my property rights. This is creating “the have” and “have nots.” I would not recommend the proposed ordinance and would like to see more community discussions throughout the whole county. I do not recommend until those discussions have been held.

Angel Permaloff – 25310 Olinda Trail, I appreciate it coming back to public hearing and I am impressed with thoughtful actions taken by the County Board and Planning Commission. Staff has done a great job in listening to residents. My hope has been to act proactively instead of reactively. Collectively, we have become more proactive and thoughtful on solar. There are a number of representatives from the solar industry but I am here to represent the neighbors of the solar projects. I support Dave Whitney’s comments that he will be bringing forward later and Commissioner Chris DuBose’s measure and support of residents. I left the metro area and living near high power energy lines and a cell tower. I am concerned with the health consequences from inverters on small children. I have concerns with harmonic distortion that could cause health problems. I would like to review three codes in the National Electrical Code that could be applied to solar inverters. I request the addition of a \$70 - \$80 filter based on the Institute of Electrical and Electronics Engineers (IEEE) standards. The IEEE’s guideline will help limit harmonic indices. The filter would help reduce dirty electricity going into homes and businesses.

With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by Jim Froberg and carried unanimously. Planning Commission members discussed concerns with the 735 ft setback, legality of limiting one solar energy system per parcel, Ms. Permaloff’s concerns, screening, and issues with multiple companies having different interconnections. Concentrating solar gardens is a benefit for neighbors. Chair McCarthy and Jim Froberg agreed to the decreasing the setback from road; and increase the setback from the neighbors. Jim Froberg added having a berm with trees. John Sutcliffe agreed to changes in the setback from the road and berm with trees. He also suggested an increased setback to neighbors and/or berm with trees. Shellene Johnson commented the Planning Commission’s need for forward thinking to try and prevent a large burden on future generations, balance different viewpoints on solar, reduce problematic issues through a sensible comprehensive approach. Dave Whitney discussed

setback concerns, screening and research he has found on hazardous materials from solar panels and how often they are replaced during the life of the project. He offered an amendment on the decommissioning phase and disposal of the solar panels. Director Schneider reported the County Attorney did not identify a legal concern on the limit of one solar energy system per parcel. He stated electrical is inspected by the Minnesota State Electrical Inspector and Environmental Services staff does not have expertise in electrical or IEEE. Chair McCarthy summarized the Planning Commissions comments into five areas based on discussion:

1. Dave Whitney's amendment on decommissioning
2. Changing the 735 ft setback
3. Eliminating the one solar energy system per parcel
4. County staff research the filter based on IEEE and identify issues with current technology
5. Install two rows of alternating evergreens

The Planning Commission continued to discuss the setback and concerns of the decommissioning of solar panels in a landfill. Director Schneider discussed the recommended amendment on decommissioning could be part of the Solid Waste ordinance and this context is zoning and land use. Director Schneider reported Lisa Thibodeau, Chisago County Solid Waste Administrator has been working with Minnesota Pollution Control Agency (MPCA) on new ways to properly manage waste and recycling. Director Schneider recommended that Ms. Thibodeau should have time to review the proposed decommissioning recommendation. Dave Whitney expressed concern of his amendment on decommissioning being forgotten or slowed down in a separate ordinance. Shellene Johnson expressed concerns on reducing the setback and proposed a 200 ft setback with 10 ft high berm with evergreen plantings, and to keep the restriction of the one per parcel. The Planning Commission continued to discuss and deliberate the setback and the possible impracticality of installing a berm at the 10 ft height.

Commissioner Chris DuBose, County Board Liaison commented the County Board supports renewable energy and playing a leadership role in solar. There is enough solar energy to power every house in Chisago County. The County Board made three recommendations for the Planning Commission to review. The setbacks were a major concern and the 735 ft setback was not a random number, it was based on five acre developments. The idea for the setback was only for State and County Roads, on higher traveled and usually paved roads. A solar project could be in back and allow for future development in front near the road. Second was screening and the third recommendation was the one solar energy system per parcel. It was really about production tax and it is being worked on at the state level. If the Planning Commission was going to drop a recommendation, he suggested dropping the one solar energy system per parcel. The County Board would like to see the increased setback and screening.

Frank Storm commented that property owners he has spoken with that have their land leased to a solar company do not want to sell their land, they would like to keep it and pass on to the next generation or use it later on. **Motion** by Frank Storm to table any further action and discussion, have staff review and edit setbacks, screening, and interconnection, with review from our Solid Waste Administrator on the recycling concerns and if it is legal for the County to direct recycling of solar panels. Second by Jim Froberg. Chair McCarthy clarified the motion was to table and staff edit the language and have both setback numbers noted. Frank Storm indicated the setback be edited to 135 ft from centerline. Chair McCarthy indicated there has been a lot of discussion and suggested voting on each edit separately, then return to the motion on the floor.

Motion by Frank Storm to reduce the setback to 135 ft from centerline. Second by Jim Froberg. Jim Froberg indicated berms should be added to the motion. Discussion followed. **Motion amended** by Frank Storm for a 135 ft setback with up to a 4 ft berm with two rows of evergreen trees. Second by Jim Froberg. The motion passed with Dave Whitney, Jim Froberg, John Sutcliffe, Chip Yeager, Frank Storm and Jim McCarthy in favor. Opposed was Shellene Johnson.

Motion by Dave Whitney to have staff review the decommissioning/disposal plan recommendation to not allow solar panels to be disposed of in landfills. Second by Shellene Johnson. Discussion followed on the best location for the ordinance language; placing it in zoning or solid waste ordinance. Motion carried unanimously.

Motion by Shellene Johnson for the recommended IEEE filter to be installed at the transformer. Second by Chip Yeager the motion is based on staff review of the recommendation if it is feasible or not. During discussion, Frank Storm indicated he would like to table it to allow the board time to review Ms. Permaloff's handouts. Shellene Johnson commented the board is not acting on it, just having staff review the recommendation. The motion passed with Dave Whitney, Shellene Johnson, Jim Froberg, Jim McCarthy, John Sutcliffe, and Chip Yeager in favor. Opposed was Frank Storm.

Motion by Frank Storm to remove the one solar energy system per parcel from the draft ordinance. Second by Chip Yeager. Motion carried unanimously.

Discussion returned to Frank Storm's original motion of tabling and having review and edits done by staff.

Motion by Frank Storm to table further action and discussion, staff will review and make edits based on the previous motions, for the Planning Commission to review. Second by John Sutcliffe. Motion carried unanimously.

Director Schneider requested a point of clarity on the motions to assure staff is directed in the correct direction. Changes by the Planning Commission included:

1. Staff will remove any reference of limiting one solar energy system per parcel.
2. Staff will review and evaluate the IEEE filter or filtering process, how to incorporate it in the ordinance language and benefit it might offer.
3. Review the decommissioning plan of our current ordinance and consider an addition of a product stewardship or proper disposal/waste handling path for recycling of solar panels in the plan. Staff will work with Solid Waste Administrator and MPCA and incorporate into County policy.
4. Planning Commission is not in favor of the 735 ft setback from centerline of State and County Roads. Planning Commission has approved a 135 ft setback with berm up to 4 ft high and with 6 ft tall evergreen trees planted on top of the berm within the 135 ft setback. Current ordinance has a performance based landscape plan, with landscape architect design and 75% opacity after the third year of planting. These are two different types of plans and directions for screening. The Planning Commission could review two options. One option is anything greater than 135 ft setback could have a more custom landscape architect designed plan. Second option is the minimum 135 ft setback with berm and enhanced screening of evergreen trees planted on top. By consensus the Planning Commission agreed with the two options as long as both options meet the 75% opacity screening by end of year three of the project.

Director Schneider will updated the county board with the general direction the Planning Commission is moving in with the outlined changes.

Rules of Order and By-Laws

Shellene Johnson made a suggestion on Section 16 (A) An ~~unexcused~~ noticeable decrease participation of engagement for required meetings within one calendar year may be considered grounds for removal.

John Sutcliffe asked for clarification if this was just for regular meetings or included special meetings and tours. Coordinator Jagoe reread Section 16 (A) which was to include regular meetings only as the suggested change at the February meeting. Frank Storm indicated he did not see any reference to MN State Statutes 13D.015 and 13D.2 in Section 17 Remote Attendance. It is important to reference: the person is able to be heard by all in attendance, county should not incur a cost when that person is requesting to be away from

the meeting, all votes be done by rollcall, and remote location will need to be in a place for the public to attend. Coordinator Jagoe indicated the draft includes reference to State Statute and is in accordance with it but will confirm with the County Attorney office if specific sections need to be noted. **Motion** by Frank Strom to table and wait for staff edits, County Attorney review and brought back for review. Second by Chip Yeager. Motion carried unanimously.

ADJOURNMENT: There being no further business, motion by Frank Storm and second by Jim Froberg to adjourn. Meeting was adjourned at 9:06p.m.