

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS

August 6, 2020 - **DRAFT**

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, August 6, 2020 in a synchronous e-meeting due to Declaration of Local Emergency.

Staff Present: Jessica Jagoe; Land Services Coordinator and Diane Sander; Land Services & Parks Specialist.

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

Coordinator Jagoe provided an overview of the electronic meeting format, review of muted microphones, speaking order, how to “raise hand” icon on computer or *9 by listening by phone, with Chair McCarthy leading following meeting order and procedures. Coordinator Jagoe reported East Central Energy Conditional Use Permit at PID#02.00593.00 had been withdrawn.

APPROVAL OF AGENDA – Motion to approve the amended agenda with the addition of 2 - Public Hearing Comments and the Withdrawn Conditional Use Permit Application from East Central Energy by Dave Whitney. Second by Frank Storm. Motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the July 2, 2020 minutes by Frank Storm. Second by Dave Whitney. Motion carried unanimously.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD - Motion that all applications, submittals, reports with attachments, and other materials were adopted into the record by reference made by Frank Storm. Second by Jim Froberg. Motion carried unanimously. Meeting materials distributed in advance to the Planning Commission for their review included: Public Hearing Comment for Darrick and Chantel Kvale PID#02.00226.00 and Public Hearing Comment for East Central Energy PID#02.00935.00. Copies of all correspondence and meeting materials were made available for electronic distribution.

Public Hearing Items:

Dennis Frandsen

Coordinator Jagoe presented background information on the Frandsen preliminary plat application for “Rush Lake Estates”. Original lot size is three acres, zoned Rural Residential I (RRI) within the Shoreland Overlay, with a proposed subdivision into four residential lots. This is the former site known as Peterson’s Campground or Rush Lake Resort. Last fall, all of the structures on the property were demolished the site was reestablished as a vacant undeveloped lot. The four lot subdivision will be developed with the intention of building single-family residential dwellings. These parcels have accessibility to sewer services from the Shorewood Park Sanitary District and each lot will have an individual well. The preliminary plat layout was displayed with review of the street frontage access and lot size requirements. It was noted future development of the lots will be subject to zoning code requirements for RRI and Shoreland. Nessel Township Board recommended approval with no conditions at their July 14, 2020 meeting. County Highway has approved one shared access point for Lots 1 and 2. There are no other mandatory environmental reviews required and no other issues or concerns identified.

Jim Ertz on behalf of Dennis Frandsen was available to address questions and concerns from the board. Frank Storm asked if the Department of Natural Resources (DNR) had any comments on the preliminary plat. Coordinator Jagoe reported they did not receive any feedback from DNR. Discussion followed on the

township easement and dedication of right-of-way, shared access locations, and winter road maintenance. Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Frandsen preliminary plat, but no one wished to comment. With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by John Sutcliffe and carried unanimously. Each Planning Commission member was asked for additional questions and comments. **Motion** by Frank Storm to approve Preliminary Plat "Rush Lake Estates" for four residential lots as outlined in the Staff's report. Second by John Sutcliffe. Roll call vote was taken and motion carried unanimously.

East Central Energy

Coordinator Jagoe reviewed the background information for the application which included the site is zoned Agriculture (AG) and is 1.2 acres in size. The site is currently an electric substation for East Central Energy (ECE). They are seeking a Conditional Use Permit (CUP) for Communication Wireless Telecommunication Services, including towers and antennae subject to Performance Standards in Section 7.28. The pole and antennae would be for a radio communication device for meter reading technology used by East Central Energy. The proposed setbacks are 190 feet from centerline of Pleasant Valley Road and 20 feet from the south property line. The pole would be partially screened amongst existing evergreen trees. The wood utility pole is 98 feet high with a eight foot long antennae on top. As part of the Staff Report, two conditions were included in the recommendation for additional information from East Central Energy on Tower Setbacks and Interference to ensure compliance with Section 7.28. Chisago Lake Township recommended approval on July 21, 2020 with no conditions. Technical Review was held on July 8, 2020 and had no other identified concerns. Staff has recommended approval subject to the two conditions as outlined in the report.

Vern Johnson, on behalf of ECE was in attendance and explained the pole would be used for meter reading of customers in the area and has other poles and will be looking to expand in the County on other sites. Chair McCarthy asked each Planning Commission member for additional questions and comments. Dave Whitney had a question on whether or not documents were submitted for health issues that may arise from installation of this technology. Coordinator Jagoe explained that in review of the Performance Standards we have requested additional information for condition J on Interference. The County did not request health information beyond the scope of the ordinance as it pertains to the land use. Dave Whitney withdrew his question until after the public hearing.

Shellene Johnson indicated she was concerned how this application fits under the ordinance since this was not a telecommunication, but rather an antennae to help the company. A question was raised if the pole could be located in the woods in a stealth capacity where it would not be visible above tree line. This is not a utility pole for the public's benefit. Shellene Johnson asked about feasibility to co-locate on the poles at the Chisago County Sheriff's property instead of adding a new structure to the area. Concerned about precedent would be set by adding poles that are for a private purpose. Vern Johnson indicated that East Central Energy did talk to County about that option and was told it was full and that no new equipment could be installed on the tower. On installation of a stealth tower the meter reading technology is about line of a sight and that height is needed. Shellene Johnson inquired as to how meters are currently read. Mr. Johnson indicated they are reading meters from other existing poles, but it is not working as well in Chisago County because there are not a lot of towers available to co-locate on. This is a benefit to the customers in Chisago County for more reliable and timely readings. Shellene Johnson asked staff about confirmation of co-locating on the Sheriff's tower. Coordinator Jagoe indicated that County Highway and the Land Services Department reviewed multiple sites for new poles, but was not involved in the previous review of the Sheriff's site so we cannot confirm capacity.

Chip Yeager asked about how the pole would be designed not to fall onto a neighboring property based on the proposed setback and height. Vern Johnson said the pole could be directed to fall in a certain direction. Chair McCarthy indicated it looked like the technology was a traditional radio 900 MHz and wondered if it was one-way or two-way communication. Vern Johnson indicated it was a two-way communication.

Submitted Public Correspondence:

Angel Phillips Permaloff – 25310 Olinda Trail, East Central Energy is putting up poles for smart meters, but does this upgrade serve the public? Ms. Permaloff provided links to additional reading materials, video, and excerpts from various sources that smart meters contribute to poor power quality/dirty electricity and this technology has serious medical concerns. There are telephone and fiber optic cables in place, why not focus on improving the wired communication devices. I am concerned this progress from East Central Energy will put our citizens in harms way.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the ECE Conditional Use Permit. With no additional person wishing to speak, ***motion*** by Frank Storm to closed the public hearing. Second by John Sutcliffe and carried unanimously. Each Planning Commission member was asked for additional questions and comments. Dave Whitney mentioned the public comment included information from the American Academy of Environmental Medicine and indicated they do raise health concerns and would suggest tabling the application to have staff check into the health concerns raised. Shellene Johnson agreed with the public health concerns and would like to see about co-location on the Sheriff's building.

Motion by Shellene Johnson to table for 30-days. Second by Dave Whitney. Frank Storm asked when the 60-days would be up. Coordinator Jagoe confirmed August 25, 2020 and based on the approved motion of the Planning Commission, staff would follow-up with the Applicant prior to County Board and County Board has to approve that motion. Chip Yeager asked for confirmation of power of the radio that is connected to each meter. Chair McCarthy added that it has a 900 MHz range. Vern Johnson confirmed the bandwidths were correct and were within the Federal Communications Commission (FCC) regulations. Vern Johnson added that the meter reading manufacturer has the licensed frequency which precludes there being interference. Frank Storm inquired about other locations and if smart meters were attached to the house or pole. Vern Johnson indicated that they have several co-locations with Minnesota Department of Transportation (MnDOT) and another location in North Branch. There are other 100 foot poles within their service territory, but Chisago County does not have many options for co-location. The customer's electric utility meter is similar technology used by Xcel Energy which is expanding to gas and water utilities. Frank Storm asked if this was new technology within the last 6 months or year. Vern Johnson said no this was not new technology, the meters were installed in 2017 and this application is to get better coverage for efficiency and accuracy of obtaining readings. Chair McCarthy conducted a roll call vote. The motion failed to table for 30-days. In Favor were Shellene Johnson and Dave Whitney. Opposed were Frank Storm, Chip Yeager, John Sutcliffe, and Chair McCarthy. Due to technical difficulties Jim Froberg was not able to vote.

Motion by Frank Storm to approve a Conditional Use Permit for East Central Energy, for the property at PID#02.00935.00 as submitted with analysis as staff has provided with conditions.

Condition:

1. The location of the utility pole shall be located up to 20 feet from the south property line subject upon the Applicant furnishing a registered engineer's certification that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the total tower height in satisfaction of Section 7.28.E in association with the building permit application.
2. The Applicant shall furnish documentation to County Staff in satisfaction of Section 7.28.J in association with the building permit application.

Second by Chip Yeager. Chair McCarthy conducted a roll call vote. The motion passed with Frank Storm, Chip Yeager, John Sutcliffe, and Chair McCarthy in favor. Opposed were Shellene Johnson and Dave Whitney. Due to technical difficulties Jim Froberg was not able to vote.

Darrick & Chantel Kvale

Coordinator Jagoe presented background information on the Kvale preliminary plat application for “Kvale Estates”. Original parcel size was 20 acres, zoned AG, with proposed subdivision of two lots. Approximately half mile away zoning districts change to RRI and Rural Residential II (RRII) for properties abutting to Spider Lake and Linn Lake. The property is currently developed with a single-family residential house and detached accessory structures. The parcel is surrounded with township road frontage on three sides. The new parcel, Lot 1 will only have street frontage on 270th Street and is not creating a through lot situation. The newly created 5 acre parcel will be sold with the intent to build a single-family residential dwelling. Technical Review was held on July 8, 2020 and no wetland impacts were found and staff concurred with delineated boundaries and soil verification. Chisago Lake Township Board recommended approval with no conditions at their July 21, 2020 meeting. Jessica Siverson on behalf of Mr. and Mrs. Kvale was available to address questions and concerns from the board. Shellene Johnson had concerns of wetland impacts and asked for clarification if there was shared access with current house onsite.

Submitted Public Correspondence:

Mark and Nadean Behrens – 14096 270th Street, support the subdivision, the intent makes good common sense.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Kvale preliminary plat, but no one wished to comment. With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by Dave Whitney and carried unanimously. Each Planning Commission member was asked for additional questions and comments. **Motion** by Jim Froberg to approve Preliminary Plat “Kvale Estates” for two residential lots as outlined in the Staff’s report. Second by Chip Yeager. Roll call vote was taken and motion carried unanimously.

George & Susan Schrunk

Coordinator Jagoe presented background information on the Schrunk preliminary plat application for “Deerwood Estates”. The Schrunk property has three parcels totaling 10 acres, zoned AG, which fall within different County Section lines. The property has a single-family residential house and detached accessory structures. The intent is to build a single-family dwelling on the newly created lot. Plat Review was held on July 8, 2020 and modification of lot lines were identified to maintain minimum lot dimensional requirements. Fish Lake Township Board recommended approval at their July 13, 2020 meeting with request for the property owner, Township Engineer and Wetland Specialist to meet on-site to determine alternate driveway access off of Dapple Court. Boundary line and driveway access point were identified on preliminary plat layout. It was identified to the owners, the shift in the lot line encroaches the existing septic system for Lot 2 into Lot 1. The septic system would need to be modified or moved in a manner compliant with the ordinance prior to filing for final plat. Mr. and Mrs. Schrunk were available to address questions and concerns from the Commission. Shellene Johnson had concerns with enough building space on Lot 2. Staff commented that Lot 2 will retain existing structures and Lot 1 would be the site for new development. Dave Whitney questioned the septic system and setback between lots. Mr. Schrunk indicated there was an old granary shed on site and if need be he’d to tear it down and build a septic system in the shed locations. Dave Whitney suggested asking the County Sanitarian if it would be allowed to have an easement for the septic until the system is failing and/or a certain date than build new septic system.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Schrunk preliminary plat, but no one wished to comment. With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by Dave Whitney and carried unanimously. Each Planning Commission member was asked for additional questions and comments. **Motion** by Jim Froberg to approve Preliminary Plat “Deerwood Estates” for two residential lots as outlined in the staff report, site plan, and narrative of record with conditions.

Conditions:

1. The existing septic system will be brought into compliance for Lot 2 in a manner compliant with the Subsurface Sewage Treatment Ordinance 10-1 prior to filing for Final Plat.
2. The existing 21x40 shed on Lot 2 will be modified or relocated in a manner that meets setback requirements.

Second by Chip Yeager. Roll call vote was taken and motion carried unanimously.

Kyle Palmer

Coordinator Jagoe presented background information on the Palmer Interim Use Permit (IUP) Amendment application for a community solar garden that would modify the style of solar panels from fixed tilt system to tracker system that follows the sun to be installed. The property is 40 acres just west of Almelund on County Road 11, approximately 800 feet west of Hwy. 95. It is zoned AG, but directly adjacent to the Commercial/Limited Industrial Zoning District. The project proposed to be located centrally along the road frontage. Existing IUP was issued in April 17, 2019 to establish and maintain a one-megawatt community solar garden subject to fifteen conditions. Noted differences between the existing IUP and amendment proposal is reconfiguration of the site layout, tracker height is reduced, and rows of solar panels go from North to South instead of East to West. Amador Township Board recommended approval with no conditions at their July 21, 2020 meeting.

Evan Carlson, IPS Solar on behalf of Kyle Palmer was available to address questions and concerns from the Commission. Shellene Johnson questioned Mr. Carlson on the interconnection location and if there was addition of new Xcel Energy poles to the project. Evan Carlson indicated the interconnection is relatively the same with minor modifications between the different solar panel systems and will still have three utility poles from the solar garden. Dave Whitney questioned the switch in systems. Evan Carlson reported the tracker system was more efficient. Commissioner Chris DuBose commented the revised site plan has more solar panels and rows. Evan Carlson indicated it almost doubled in rows but footprint remains the same. Shellene Johnson questioned if the solar garden was over a one-megawatt due to notation on the site plan. Evan Carlson and another representative with IPS Solar confirmed the project remained a one-megawatt solar garden. Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Palmer IUP Amendment, but no one wished to comment. With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by Dave Whitney and carried unanimously.

Chair McCarthy commented on the impact to the wetlands. Coordinator Jagoe indicated she had the Wetland Specialist review it, but will follow up with him to review the site during construction. Jim Froberg commented on the screening of Black Hills Spruce trees. Coordinator Jagoe indicated the amendment review was for the change in solar panels from the fixed tilt system to tracker system. Coordinator Jagoe commented that staff review of this application did not include compliance for the 15 conditions of original IUP, but rather that would occur at the time of the building permit. Staff confirmed that the Applicant is not seeking an amendment to the previously approved conditions as it pertains to screening. Landscape plans will be held to the original IUP approval. Chair McCarthy inquired to the process on other existing solar gardens and how to handle updates to more efficient panels and equipment. Coordinator Jagoe indicated the applicant would have to do an amendment and go through a review process. **Motion** by Frank Storm to approve the amendment to the Interim Use Permit for IPS Solar, on behalf of Kyle Palmer, Property Owner as presented in the staff report, narrative of record, and site plans as provided by the Applicant and subject to the following conditions:

Conditions:

1. Solar Panels switching from a fixed tilt system to a tracker system in a reconfigured layout as shown on Plan Sheet PV1 dated March 17, 2020.
2. Compliance with all specials conditions as approved as part of the Interim Use Permit on April 17, 2019.

Special Conditions from April 17, 2019:

1. 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.
2. Permittee shall implement MPCA-recommended erosion and sediment control devices which are deemed by the Department to be applicable, obtain an NPDES Permit, and provide the Department with the Storm Water Pollution Prevention Plan (SWPPP).
3. Areas of bare ground at the facility shall be re-vegetated with a low-growing, accepted pollinator-friendly seed mix, and shall be maintained throughout the life of the project.
4. Existing forestation, foliage and native fauna within, near and surrounding the project area shall be preserved insofar as is practical. The permittee shall establish and maintain a double row of staggered six feet tall black spruce (or a similar species if recommended by landscape architect or certified arborist) planted 16 feet on center along the full length of the north and west sides of the project perimeter. Screening shall be 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.
5. The maximum height of the solar panels shall be ten feet; perimeter fencing shall be of the deer fence design, with wooden posts, woven wire, no barbed wire, and constructed to be a minimum of eight feet tall.
6. Prior to final building permit approval, verification by a landscape architect or certified arborist shall be provided which verifies that the proposed screening plan should achieve 75% opacity by year three of the project, or the plan shall be revised to identify and implement alternative effective screening that will achieve that goal.
7. Maintenance of the screening shall be guaranteed by financial surety in an amount sufficient to guarantee that the planting height and 75% opacity screening goals are achieved by the end of the year three shall be provided prior to building permit approval.
8. All activities conducted within wetlands shall be carried out, regulated and/or prohibited in accordance with the provisions of MN Chapter 8420.
9. The Permittee shall follow MN DNR's recommendations for avoiding and minimizing impacts to Blanding's turtle.
10. The security fence surrounding the facility shall consist of agricultural fencing, also known as "deer fence" which shall consist of wood post and woven wire composition.
11. Permittee shall maintain aesthetic appearance of the project property, including disposal of trash, waste, and other detritus, for the life of the project.
12. The project shall be commissioned in accordance with the 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, or assessed against the property.
13. Financial surety guaranteeing decommissioning in accordance with the plan shall be provided and maintained by the permittee in an amount equal to or greater than 125% of the estimated decommissioning cost of \$87,767. The surety shall be provided in association with the building permit application; final building permit approval shall be conditioned upon receipt and approval of said surety.
14. The project shall be developed, and the facility operated in a manner consistent with the proposal elements identified in the application, except insofar as the elements of the proposal are suspended by the above conditions of approval.

15. Violations of these conditions of permit approval shall be cause for the revocation of the Interim Use Permit upon action of the County Board.

Second by Dave Whitney. Chair McCarthy conducted a roll call vote. The motion passed with Dave Whitney, Frank Storm, Chip Yeager, John Sutcliff, Jim Froberg, and Chair McCarthy in favor. Opposed was Shellene Johnson.

New Business

Commissioner Chris DuBose commented the City of North Branch may expand their broadband. By expanding, the Chisago County Zoning Ordinance would impact the required towers needed for installation in some areas. Chair McCarthy inquired to the density of the new poles. Commissioner Dubose said it would be approximately one new pole per section or less. Commissioner DuBose noted nothing has been budgeted yet by the City of North Branch and wanted to informally introduce the concept to the Planning Commission.

Coordinator Jagoe reviewed the upcoming applications for Planning Commission review. Coordinator Jagoe will forward Chair McCarthy's comment sheets to each Planning Commission member to fill in for suggested ordinance language. Shellene Johnson commented she would like an electronic version to edit. Dave Whitney commented he already has documented specific areas for review. The County Board room will have plexiglass installed to assist with safety protocols for COVID-19. Planning Commission members will start to document ordinance language suggestions and staff will organize and compile suggestions for further discussion and review.

ADJOURNMENT: There being no further business, motion by Frank Storm and second by Dave Whitney to adjourn. Meeting was adjourned at 9:25 p.m.