

SHERBURNE C O U N T Y



*Sherburne County
Planning Advisory Commission Meeting Minutes
March 18, 2021
6:00pm*

The Sherburne County Planning Advisory Committee met in the Board Room, with the Board Chair present at the Sherburne County Government Center in Elk River, Minnesota and the remaining members joining via phone (due to Covid-19) on March 18, 2021 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Chairperson Bryan Lawrence called the meeting to order and roll was taken.

The following members were present via phone:

Bruce Aubol, Big Lake Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township; Steve Demeules, Palmer Township; Bryan Adams, Orrock Township; Terrance Vandereyk, Clear Lake Township; David Jehoich, Santiago Township; Mike Pesch, Haven Township; Commissioner Tim Dolan

Present in the Board Room was Chairman, Bryan Lawrence, Baldwin Township, and the following staff members; Zoning Administrator, Nancy Riddle; Assistant Zoning Administrator, Lynn Waytashek; Planner, Mitch Glines; Secretary, Carrie Winter and Assistant Public Works Director/Deputy County Engineer, David Roedel.

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Lawrence stated that each vote will occur with a roll call due to members attending via phone call.

Lawrence stated that the meeting was being recorded and announced that the Planning Commission is a recommending body. Items recommended for approval by the Planning Commission will be heard by the County Board of Commissioners on April 6th, 2021 at 9:00am.

Pesch made a motion to approve the Public Hearing agenda for March 18, 2021. Adams seconded. Motion carried and the Public Hearing agenda for March 18, 2021 was approved.

Demeules made a motion to approve the minutes from the February 18, 2021 Public Hearing. Jehoich seconded. Motion carried and the minutes were approved for the February 18, 2021 Public Hearing.

Agenda:

1. **Country Oak Meadows** (Property owner JDA Builders LLC): Request for final plat approval consisting of (6) lots.
2. **Hunter Estates** (Property owner Jethro Carpenter): Request for final plat approval consisting of (5) lots.
3. **USS Golly Gee Solar LLC** (Owner: John & Lynette Golly): Requesting an Interim Use Permit for a 1 MW Community Solar Garden

Agenda Item # 1 -6:03pm

Country Oak Meadows (Property owner JDA Builders LLC): Request for final plat approval consisting of (6) lots.

PID# 01-010-3400 Sec 10, Baldwin Township on 20.19 acres in the General Rural District

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

PLANNING COMMISSION'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Final Plat (date stamped February 16, 2021)
- C. Final Grading and Drainage Plans (date stamped February 16, 2021)

BALDWIN TOWNSHIP COMMENTS (received on March 2, 2021) – Recommend approval.

Bogart Pederson & Associates (Wes Davis), Baldwin Township Engineer (received on March 2, 2021) – There are no comments at this time and would recommend approval of the Final Plat.

DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (November 10, 2020) –

- 1. No concerns with the Standard Preliminary plat application. Not on a County Road.
- 2. The Sherburne County Public Works Department will require park dedication fees for the 6 new lots at \$800 per lot, totaling \$4,800. Park fees must be paid prior to the Public Works Department signing the plat mylars.

Russ Heiling, County Surveyor's Office (January 22, 2021) – We are OK with the prelim drawings submitted and will perform a final plat check when approved.

Mike Lindenau, County Ditch Inspector (November 2, 2020) – I have no issues. Does not benefit from County Ditch #4.

PLANNING & ZONING STAFF COMMENTS:

- 1. This proposed final plat consists of six (6) lots on 20.19 acres.
- 2. No new roads will be constructed.
- 3. The easement to the north of the property is an ingress/egress easement and not a dedicated right of way. If it ever is dedicated as right of way, structures may not meet the 67' setback to the Township right of way.
- 4. There are no existing structures or septic systems on the property.

RECOMMENDED CONDITIONS IF APPROVED:

1. Park dedication fees for 6 lots at \$800 per lot, totaling \$4,800. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. Must obtain driveway access permits from Baldwin Township prior to driveway construction.
3. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval. **Completed**
4. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No ground disturbance may begin prior to the Zoning Department issuing the Stormwater & Erosion Control Permit. **Completed**
5. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.

Planning Commission Discussion Followed:

Todd Ohlin, 9464 193rd Ave, Becker was present as applicant of the final plat and did not have any additional questions or comments.

Adams asked why there is such a heavy silt fence for the application?

Ohlin stated that the heavy silt fence is a double roll silt fence to protect the wetland and that is the MPCA standard.

Glines asked Adams if he was referring to the wood post vs the T-post.

Adams confirmed that he was asking about the posts.

Glines stated that sometimes the T-posts are a preference so they can be reused. For this plat, the SWPPP designer may have opted for the T-posts over the woods posts because the wood posts can break when removed.

Lawrence added that they are usually a 3 ft T-post. He has also seen them with woven wire; but doesn't see that this applicant is going that far. The applicant is using silt fence.

Ohlin confirmed that they are using silt fence.

Adams stated that this answered his question.

Adams made a motion to recommend approval of the request for Final Plat of "Country Oak Meadows" consisting of (6) lots with the recommended (5) Conditions. Nelson seconded.

Conditions:

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1. Park dedication fees for 6 lots at \$800 per lot, totaling \$4,800. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. Must obtain driveway access permits from Baldwin Township prior to driveway construction.
3. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval. **Completed**
4. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No ground disturbance may begin prior to the Zoning Department issuing the Stormwater & Erosion Control Permit. **Completed**
5. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.

The motion carried with all members voting via roll call in favor (Aubol, Adams, Jehoich, Spencer, Nelson, Pesch, Demeules and Vandereyk) and the final simple plat for "Country Oak Meadows" is recommended for approval by the Planning Advisory Commission to the County Board.

Agenda Item # 2 -6:08pm

Hunter Estates (Property owner Jethro Carpenter): Request for final plat approval consisting of (5) lots.

PID# 01-029-1100 Sec 29, Baldwin Township on 38.35 acres in the General Rural District and within the Natural Environment Shoreland District of Unnamed Lake #710042.

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

PLANNING COMMISSION’S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Final Plat (1-2) (date stamped February 16, 2021)
- C. Final Grading and Drainage Plans (date stamped February 16, 2021)

BALDWIN TOWNSHIP COMMENTS (received on March 2, 2021) – Recommend approval.

Bogart Pederson & Associates (Wes Davis), Baldwin Township Engineer (received on March 2, 2021) – There are no comments at this time and would recommend approval of the Final Plat.

DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (December 11, 2020) –

- 1. Public Works Engineering approves the access locations along County Road 45 as shown, subject to approvals for the northerly access location meeting wetland setback requirements.
- 2. Public Works Engineering approves access to County State Aid Highway (CSAH) 9 as shown. Access shall be shared as noted. Access to existing house will be removed.
- 3. An Access Permit (driveway) will be required prior to the access construction and in accordance to Public Works Engineering Standards.
- 4. The Sherburne County Public Works Department will require park dedication fees for the 4 new lots at \$800 per lot, totaling \$3,200. The lot with the existing home is exempt from the Park dedication fee requirement.

Russ Heiling, County Surveyor’s Office (January 22, 2021) – We are OK with the prelim drawings submitted and will perform a final plat check when approved.

Mike Lindenau, County Ditch Inspector (November 2, 2020) – I have no issues. Does not benefit from County Ditch #4.

PLANNING & ZONING STAFF COMMENTS:

- 1. This proposed final plat consists of five (5) lots on 38.35 acres.
- 2. No new roads are proposed to be constructed.
- 3. There is an existing house (built in 1910 per County records) with three (3) existing accessory buildings. The existing septic system has had a septic compliance completed and is compliant.

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4. The house and one (1) accessory building are located in the 150' lake setback and 70' road right of way setback and are considered legal non-conforming structures. If these structures are destroyed by more than 50% they must be rebuilt to meet the required setbacks.

RECOMMENDED CONDITIONS IF APPROVED:

1. Park dedication fees for 4 lots at \$800 per lot, totaling \$3,200. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. An Access Permit will be required prior to the access construction and according to Public Works Engineering Standards.
3. Existing driveway to Lot 2, Block 1 is required to be removed per Public Works comments received.
4. The house and one (1) accessory building are located in the 150' lake setback and 70' road right of way setback and are considered legal non-conforming structures. If these structures are destroyed by more than 50% they must be rebuilt to meet the required setbacks.
5. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval. **Completed**
6. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No ground disturbance may begin prior to the Zoning Department issuing the Stormwater & Erosion Control Permit. **Completed**
7. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.

Planning Commission Discussion Followed:

The applicant, Jethro Carpenter, phoned into the meeting. He did not have any additional comments or questions.

Lawrence confirmed that Carpenter understood the Conditions.

Carpenter confirmed his understanding.

Jehoich made a motion to recommend approval of the request for Final Plat of "Hunter Estates" consisting of (5) lots with the following (7) Conditions. Spencer seconded.

Conditions:

1. Park dedication fees for 4 lots at \$800 per lot, totaling \$3,200. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. An Access Permit will be required prior to the access construction and according to Public Works Engineering Standards.

3. Existing driveway to Lot 2, Block 1 is required to be removed per Public Works comments received.
4. The house and one (1) accessory building are located in the 150' lake setback and 70' road right of way setback and are considered legal non-conforming structures. If these structures are destroyed by more than 50% they must be rebuilt to meet the required setbacks.
5. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval. **Completed**
6. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No ground disturbance may begin prior to the Zoning Department issuing the Stormwater & Erosion Control Permit. **Completed**
7. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.

The motion carried with all members voting via roll call in favor (Aubol, Adams, Jehoich, Spencer, Nelson, Pesch, Demeules and Vandereyk) and the final simple plat for "Hunter Estates" is recommended for approval by the Planning Advisory Commission to the County Board.

Agenda Item # 3 -6:13pm

SOLAR FARM- Golly Gee Solar LLC (Property Owner: John & Lynette Golly) Request for an Interim Use Permit for a 1 MW Solar Farm

PID 20-129-4100, Address: 10943 – 90th St SE, Clear Lake, Section 29, Clear Lake Township 41.63 Acres in the Agricultural Zoning District

Lynn Waytashek, Assistant Zoning Administrator, presented the request to the Planning Commission including the board packet, attachments, and comments.

PLANNING COMMISSION PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Site Plan (date stamped January 28, 2021)
- C. Landscape Buffer Plan (date stamped January 28, 2021)
- D. Project Description Plan (date stamped January 28, 2021)
Decommissioning, Restoration & Repowering Plan pgs 12 - 13

CLEAR LAKE TOWNSHIP COMMENTS (February 17, 2021): Township has no problem with this request as long as all County requirements are met. The township did request that the applicant use chain link fencing instead of the welded wire mesh fence. That is what is on almost all the other solar farms in the township. The applicant said that would be no problem and will make the change.

DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (date January 29, 2021): The proposed access set 660 ft from the adjacent access meets our access spacing guidelines and is approved.

Fire Chief of Clear Lake: No comments received

County Attorney Office: No comments received

PLANNING & ZONING STAFF COMMENTS:

1. USS Golly Gee Solar LLC is proposing to place a 1 MW solar farm on this property. This 1 MW site will take up a fenced area containing the solar panels of 7.75 acres.
2. They are proposing to have three (3) new utility poles for this solar farm for connection with Xcel Energy.
3. Site will have approximately 3,400 tracking solar panels that will follow the sun. The racking system is installed in the ground with pilings at a depth of 8 ft – 11 ft.
4. Applicant is proposing to plant Techny Arborvitae around the entire perimeter of the project.
5. Closest house is approximately 280 ft east of proposed solar farm.
6. Access to the proposed solar farm shall be via CSAH #8 in far southwest corner of the property.

7. All above and below ground equipment, wiring, concrete, etc. must be removed from site when decommissioned.
8. *A less than 8 ft farm field styled fence without barbed wire is proposed.*
9. A Glare Study was not required because proposed solar farm is not utilizing a reflector solar system.

RECOMMENDED CONDITIONS IF APPROVED:

1. Building permit required for on-site supply structure if over 200 sq ft in size.
2. Building permit required for installation of solar panels with engineered plans submitted.
3. If the required privacy fence around the perimeter of the facility exceeds 7 ft in height it will require a building permit with engineered plans. **Fence type proposed versus chain link fence needs to be determined by the Planning Commission.**
4. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.
5. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.
6. Property owner shall ensure that MPCA day & nighttime noise standards are not exceeded at any time.
7. Operational hours allowed during construction of the facility are Monday through Friday 7AM - 7PM.
8. Decommissioning of solar panels and related facilities must occur in the event the IUP expires or is terminated, and/or the solar panels are not in use for twelve (12) consecutive months. Must follow the Decommissioning & Reclamation plan date stamped January 28, 2021.
9. Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$25,000 per MW, in favor of Sherburne County, to guarantee compliance with the decommissioning plan, site restoration and other terms of this Permit upon project termination or termination of this Permit. The financial security shall be in a form acceptable to the County and, at a minimum, shall consist of a cash escrow to be deposited with the County in an amount no less than 50% of the total required financial security, with an initial deposit of 25% of the total amount deposited prior to issuance of the building permit and eight and one-third percent (81/3%) of the total amount deposited annually for three years on or before the anniversary of the issuance of the building permit. The remaining amount of the total financial security shall be provided by way of an irrevocable letter of credit, which shall be in a form acceptable to the County Attorney's Office and provided prior to the issuance of a building permit, and shall meet the following minimum standards (additional standards may be required): the irrevocable letter of credit shall be issued by a federally chartered or State of Minnesota chartered banking institution with an branch office located within Sherburne County; shall be issued in the name of the County of Sherburne; shall be issued in an initial amount no less than 75% of the total financial security required by this Permit; shall permit the County to draw on the funds upon demand based on the County's determination of non-compliance with the terms of this Permit; shall be for an initial term to be established and shall automatically renew for additional terms unless the bank gives the County at least 60 day written notice of an intent to terminate the credit at

the end of a term; shall permit the County to draw upon the letter of credit for the full amount in the event a replacement letter of credit acceptable to the County is not issued at least 30 days prior to the expiration of the existing letter of credit; and shall provide that the letter of credit may not be amended without the written permission of the County.

10. No activities may occur onsite until applicant submits a signed an interconnection agreement as required in Section 17, Subd 17 (1A) of the ordinance and proof that the scope of the project is permitted by the Minnesota Public Utilities Commission.
11. The site will be revegetated within 30 days after construction with a low growth & low maintenance native pollinator friendly seed mix not exceeding 24 inches in height. The property will be treated & maintained as needed during the spring & summer months to manage vegetation growth. Property owner will responsible for vegetation control & weed management during the project's operating life.
12. Must install 6 foot tall Techny Arborvitae trees around entire perimeter of the solar farm as shown on Landscape Buffer Plan (Attachment C) date stamped January 28, 2021. The trees must be planted staggered in two (2) rows, in each row the trees may be planted no more than 8 feet apart. All planted trees on the property must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.
13. This IUP is to be valid for 40 years until December 31, 2061. This IUP is valid for USS Golly Gee Solar LLC and John & Lynette Golly.
14. Access to the proposed solar farm shall be via CSAH#8 in the southwest corner of the property.
15. Decommissioning of project shall involve removal of all project components, including without limitation, solar panels, panel trackers, anchors, supports, mounts, inverters, underground electrical components underground conduit housing & all underground footings & posts.
16. Signage and emergency contact numbers must be posted at the access driveway to property.
17. The findings in Section 18, Subd 6, Item 4 of the Zoning Ordinance have been made.
18. The applicant shall allow the County to inspect the property during normal business hours.
19. The applicant shall comply with all federal, state, and local laws and regulations.

Planning Commission Discussion Followed:

David Watts joined via phone call as representative of the applicant. Present in the Board Room was Cullen Kobayashi, Project Developer for US Solar, 100 N 6th St, Ste 410B, Minneapolis, representing the applicant. He stated that US Solar is a small Minnesota based team that develops, owns, and operates community solar gardens. Kobayashi stated that this CUP application should be straight forward, they have met all Ordinance requirements, they have received no public opposition and they agree to the staff recommended Conditions. Not all solar is created equal and they are seeking to seamlessly integrate this project into the community, increase the tax base, support landowner rights, enhance nearby crop yields and strengthen the local environment and wildlife. Once operational the solar garden will not have any noticeable noise, traffic, glare, dust, light, vermin, etc. All signs of a good neighbor.

Kobayashi went on to say that this project, USS Golly Gee Solar LLC, will generate enough electricity to power approximately 225 homes annually and interconnect directly to the existing distribution system of Xcel Energy on River Road SE. The project will pay additional tax revenue to Sherburne County and benefit local schools, township, residents, businesses, and public entities who prescribe to the energy used in the project.

Aside from the direct financial impact, the community will benefit from the private investment in pollinator-friendly habitat, which increases nearby crop yields and improves soil, water, and air quality. Stormwater runoff is decreased by 23% compared to row crops. Lastly, we will be paying for upgrades to the local distribution infrastructure that brings power to the community, including the homes on River Road SE.

Kobayashi continued, saying that their projects may be different than those you've seen around the county and the state. They use single-axis trackers which tracks from east to west with the rising and setting of the sun. The panel height ranges from about 6 to 8 feet for normal daily operations. This is much shorter than systems that are "fixed tilt" which are often about 15 feet tall. Additionally, as stated in the application, a pollinator friendly habitat will be planted in-between and underneath the rows of solar panels. Once established the native grasses will not only be beautiful to look at, but it will also bring a positive impact on the local environment.

Kobayashi stated that most of the communities they work in much prefer the looks of a farm-field-style, with wooden posts and page wire, compared to the chain link and barbwire look that is commonly found around industrial uses. Both fence types are totally secure and meet the requirements of state and national electric codes. They proposed a farm-field style fence that is less than 8' tall with no barbwire. If the County decides to require chain link and barbwire, as recommended by the township, they will comply.

Construction of a Solar Garden is simpler than many people realize. Galvanized steel I-beams are driven into the ground, and the racking sits on top of the I-beams. Solar panels clip into the racks. There are no concrete footings, permanent structures, or buildings. The most noticeable phase of construction is the pile driving, which is often completed in a day and a half. The rest of the construction activity is generally completed in about 7 weeks. After construction, you can expect one pickup truck to visit the site about 4 times per year for routine maintenance.

Kobayashi stated that there is one major aspect of their CUP application that warrants discussion – landscape screening. The ordinance requirement states, "vegetative screening such as coniferous trees a minimum of 6' in height or an alternative approved by the Zoning Administrator, shall be installed around the perimeter of the Solar Farm". Presumably, the language to pursue an alternative screening solution was added in case there were unique considerations for a specific project. For this project, there are three unique considerations we would like to call your attention to:

1. Local vegetation experts do not recommend planting Techny Arborvitae at 6' tall. Planting Techny Arborvitae at 6' increases the risk of transplant shock and tree death as well as slows the rate of growth. Techny Arborvitae planted at 4' tall will actually outgrow another Techny Arborvitae planted a 6' after 3-5 years.
2. According to Colleen Hollinger of Natural Resource Services, a local contractor that is used for planting tree screening, 6 foot tall Techny Arborvitae are in limited supply this year due to the high demand in Midwest solar sites. The shorter height as described above would be more beneficial for the growth of the tree and the health of the screen that is planted, but is readily available and they would need to face significant hurdles in trying to acquire the trees needed to complete the entire screening.
3. The closest building to the north that is not owned by this landowner is over a mile away, 6,210' to be exact. The landowner owns about 150 acres of farmland immediately north of here. Simply put, there is nothing to screen from to the north – it would only impact the farming operations directly to the North.
4. It is their understanding that the landowner is working with at least one other solar developer to install another solar farm on the same parcel, immediately west of this project. Kobayashi thinks we can all agree that if the western neighbor to our solar farm is another solar farm, then there would be no need for landscape screening on the west side. In other words, because solar panels don't have eyes, landscape screening should not be required on the western perimeter if another solar farm is constructed on the western perimeter.

Kobayashi stated that given all of these unique considerations, USS Golly Gee Solar LLC would propose a change to Condition #9 to the following effect: Allow for landscape screening to be planted in 5 gallon containers and not be limited to 6 ft as described. Eliminate the landscape screening to the north. Then, let's establish a financial surety equal to the cost of the landscape screening on the west side. That's 200 trees at approximately \$60/tree, equal to \$12,000. If another solar farm is constructed along the western perimeter of ours, then no western screening will be planted, and the surety will be released. If another solar farm is not constructed within 12 months of us closing the building permit, then they will use that financial surety to plant the screening. This way, there is no question that the screening will be installed if it is in fact needed.

According to Kobayashi on February 17th he met virtually with the township to discuss the project. As stated in the staff report, the township did not see any issues with the proposed project. The only comment was about the barbed wire fence recommendation, which he assumes will be discussed.

Kobayashi concluded stating that Sherburne County permits solar gardens in its Agricultural zone with an interim use permit. USS Golly Gee Solar LLC meets all the ordinance requirements, has received no public opposition and have gotten the recommendation of approval from the

township. They respectfully request that the Planning Commission recommends approval of the project with the proposed amendment to Condition #9. He then asked for any questions from commission members or staff.

Lawrence opened the Public Hearing.

John Golly, 10943 90th Ave SE, Clear Lake and his wife Lynn are owners of the property that they are hoping will be the Golly Gee solar farm. They are here to respectfully request approval of their solar farm. They own roughly 450 acres and farm a total of 1300 acres. They will continue to farm all acres outside of the solar gardens with son Kyle. They are first generation farmers and are hoping that the income generated by the solar farm will help with the payments when the commodity prices don't keep up with the price of production.

Lawrence asked if Golly is leasing the parcel or maintaining ownership?

Golly stated that they are leasing this to the Solar Company.

Aubol commented that his preference for the fence is chain link, the type that is required around electrical installations and most of the other solar farms.

Adams stated that NESC code requires a chain link fence with three strands of barbed wire, so he highly recommends that. It's true that the 4ft trees transplant better than the 6 ft trees, they don't go into shock as much. He does object to the proposal to use 5 gallon containers as they tend to get root bound and they don't do well over time.

Jehoich recommended the chain link fence with the barbed wire top.

Pesch agreed with the chain link fence and the comment on the 5 gallon pails as it puts the plants at risk. The 4ft trees seem like a reasonable accommodation.

Spencer agreed with chain link fence with barbed wire and comments about the trees. Spencer does not think the buckets are a good idea.

Vandereyk stated that Clear Lake township does not have opposition to solar farms in general, but they are concerned about security issues with the fencing and prefer chain link with barbed wire. It was his understanding from the township meeting that this would be complied with by the developer. He is surprised to see them going back to the original fencing design. He also endorses the notion of screening on the West side, does not see a reason for screening on the North side as mentioned in Kobayashi's presentation, as it is all Agricultural fields to the North. Being that the proposed solar farm to the West is not a sure thing at this time, there should be some type of condition added so if that plan falls through there is tree line screening on the West side. The Township would prefer chain link fencing and realizes that the county does not have mandate on that. This is the preference for the safest security.

Lawrence asked if the township had any thought on the Techny Arborvitae trees as a selection type? We typically have black hill spruce.

Vandereyk stated that this wasn't discussed at the town board. He personally doesn't see any problem with it.

Lawrence stated that the Public Hearing was still open, and he wanted to discuss the Conditions. Based on the presentation and the notes that the Planning Commission has, #3 wasn't going to be an issue and there has been a unanimous request by the members of the Planning Commission for the chain link fence. Chain link will be used in Condition #3. Lawrence stated that typically trees have been required around the entire solar farm, whether its surrounded by farm field or not. Lawrence asked Waytashek what the conversations have been and if she had any suggestions.

Waytashek recalled that when a request was made to not put trees around the entire circumference, for a solar farm by the Princeton airport, it was her understanding from the County Attorney's office that this would require a Variance if there were not trees around the entire area. This is an issue that would need to be addressed. We would need a Variance if trees were not going to be put around the entire area. As far as the Western portion of the property, we did have a time when there was a solar farm and we did have another solar farm going in at the same time and we knew that it was going to happen. Those plans were amended, they came in at the same time and it made sense to not have a line of trees between 2 solar farms. Here, we don't have another application so we don't have a guarantee of when and if that will happen. Waytashek is not sure of how to deal with that issue, but without a pending application it is hard to address this issue. Lastly, we have not addressed the issue of shorter trees, the Ordinance says min of 6 ft in height or alternative approved by Zoning Administrator. A variance may be needed to not do the 6 ft tall trees. As stated previously by Lawrence, we have had mostly black hill spruce that are 6 ft tall. She asked Kobayashi, why have you chosen the Techny Arborvitae instead of the Black Hills Spruce?

Kobayashi stated that this type of tree had been used in several other projects across the state. They have found that these are quicker to grow than Black Hill Spruce and if designed correctly using multiple rows, they think these are just as efficient.

Lawrence then stated that the comment had been made, that the Zoning Administrator could comment so Lawrence deferred to Riddle.

Riddle stated that SWCD or another agency had at one time given the County recommendations on what trees would grow best in Sherburne County's sandy soils. She stated that people have used these in their landscaping, but do they grow here and will they grow here if they are not watered?

Waytashek stated that she would need to check on that. The Ordinance does state that they have to guarantee the survival and if they don't live, they will need to come back and replant those trees. This would depend on the type of tree that you are planting if it does not survive. Each year the County goes out and checks these trees to make sure that they are alive, we will send a letter and give you so many days to replant the trees.

Kobayashi asked if it's possible to work with County staff prior to the next meeting to look at the best possible species of tree, together?

Lawrence stated that we are talking about species and a request of 4 ft height. The commission would defer to staff for making that call. Note, that we have always required 6 ft. We have required it around the entire landscape, and we have always required spruce, typically black hills. Not, that we haven't had requests for others. Lawrence directed a question to Riddle asking, as far as the West side, if they gave surety and had a year with no application for solar, could they require that trees be planted?

Riddle stated that she would need to talk with the County Attorney. These solar farms are often sold quickly, and it becomes an issue for us on who we should be talking to and tracking them down. Not to say that it can't be done, but we would need to look into that. The other question is the barbed wire at the top of the fence, she would like that to be specific, if this is required. Riddle does not think that all have the barbed wire at the top.

Waytashek added that she does not think that they all have the barbed wire at the top. Some have 1 strand of barbed wire; we would need to be specific if we are requiring 3 strands.

Riddle stated that she just wanted to make sure the Condition is clear for what is being required.

David Watts, US Solar, 100 N 6th St, Ste 410B, Minneapolis, stated that he understands that many projects are sold, this is the point of an escrow, as the contingency plan. He noted that US Solar is unique, the business model is to be the long term owner and operator for the entire project life. US Solar is still the owner and operator of another project permitted, years ago in Sherburne County. But this should not be an issue because of the escrow. He believes that the language in the Ordinance allows you to deviate from the typically landscape screening at the discretion of the Zoning Administrator. He doesn't think a Variance would be needed so long as the Zoning Administrator agreed to the plans. Whether this be doing the screening to the North, doing the escrow resolution on the West, changing the planting height to 4 ft so they will have a better survivability and growth rate. An additional benefit that arborvitae has compared to the black hill spruce is the total size at maturity is shorter, smaller, and that allows you to put the screening nearer the solar project. If you had 100 ft trees, for example, the trees would need to be set back farther from the panels to avoid any shading and the further the project has to be put back; the more land that is wasted. This is a more efficient use of the land to have overall slightly shorter trees and keep more of the land in active farming.

Riddle stated that the Zoning Administrator can allow for changes, but this would be worked out beforehand and not at the last minute in the middle of a meeting, so she will not commit to that tonight.

Adams stated that a year ago, Soil and Water presented for the township meetings. They were not suggesting Blue Hill spruce because of the weather and changing conditions, they did not think that they would do well. We may want to check with them.

Lawrence stated that he remembers this meeting; that was one variety that they said maybe wasn't best for our area.

Adams also stated that per the NESC code, he would suggest the 3 strands of barbed wire.

Watts stated that they like to think they are good neighbors; they are not trying to change things around at the last minute. When they initially submitted their application, it didn't include screening on all 4 sides and they were told that this would be considered an incomplete application and if they wanted to have a hearing at all, that we would need to submit a plan with screening on all 4 sides and then we could make their case and provide some unique circumstances and if the Planning Commission and Board thought what they were saying made sense, then they could change the plans. USS Golly Gee Solar LLC is just working within the system and directions that we were given.

Lawrence stated that as Commissioners we need to accept that staff has done their due diligence and will accept what they have presented us with and the criteria that they have presented us with. As Lynn said, if something is to be altered or changed, you might need a Variance. That would be the next request.

Lawrence stated that tonight's discussion included, Condition #3, specifying a chain link fence with 3 barbed wires. Mr. Adams had stated this as well as several others for the fence, the 3 barbed wires is still open for discussion if anyone feels differently. Trees must be a least 6 ft tall. The Techny Arborvitae trees are on the request and unless the Zoning Administrator changes that, this is what we see if front of us and on the request and that will go all the way around unless a Variance is requested. Lawrence asked the commission if there were any different feelings from what was just discussed. There was no response from the commissioners.

Watts stated that in his experience a Variance would be requested and received prior to getting a use permit. In this case, it sounds like the opposite is being said. He doesn't believe a Variance is needed in this case at all, but if it is, he understands that the site plan has trees on all 4 sides, but as the applicant they are saying at this public hearing that it is their request for the Commission to consider screening on the South, East, contingent on West with escrow and no screening on the North and 4 ft tall Techny Arborvitae. We would like the Planning Commission's feedback to that because ultimately, they want the Board to make a decision on this and want them to have the Planning Commission feedback.

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Lawrence stated that the Planning Commission is looking at the plans in front of them tonight, no member, not even Clear Lake is in opposition of requiring the trees all the way around. Staff is still on board with the trees all the way around and have not given any other direction. Historically, trees have been required all the way around despite feelings that it's not necessary in some circumstances. Lawrence then opened it up for any Commissioners who feel differently.

Waytashek stated that the initial review letter that she sent to the applicant on December 22, 2020. Item #4, read, as quote:

The "Landscape Buffer Plan"-Sheet C200 only shows trees being planted on the east and south side of the property. If you are not proposing trees around the entire circumference of the property, then you will need to apply for a variance to the required standards. Please let me know if you want to apply for a variance so that I can send you the application.

Waytashek stated that she did notify them about a variance back in December when the initial application came in.

Riddle asked who this letter was addressed to.

Waytashek stated that this was sent to USS Golly Gee Solar 100th N 6th St and sent via email to Kobayashi.

Lawrence again asked the commissioners if they had further comments. There was no response from the commissioners.

Lawrence asked Mr. Watts if the wish is to table this item and request a Variance and to sign a 60 day waiver? Lawrence stated that it can also be approved as is if this is the request of the Commission. He has not heard any Commissioner who is on Board for changing the tree requirement at this time.

Watts stated that he would like to note for the record that Vandereyk endorsed the notion of no trees on the North and to have the escrow screening on the West. Watts stated that he thinks he understands the potential paths forward, and asked if they were to proceed forward with the plans before the Commission and later were to request a Variance to that, can the IUP be amended?

Riddle stated that they would need to come back and do this all over again. It's the same process for an amendment.

Lawrence confirmed that it's the same process with an amendment. This has happened with solar farms just to change a name. This is the way that the Ordinance is written.

Riddle stated that it's not an administrative change.

Lawrence agreed.

Watts asked if this was in addition to the Variance application? So, the process would be this IUP, Variance and then amended IUP?

Waytashek stated, "Correct."

Lawrence asked Vandereyk about his thoughts on Condition #12 wording, Vandereyk said he had no additional thoughts, just that it should abide by the County Ordinance and if the developer wants to go before the Board of Adjustment for a Variance, then this is his call. The Township has no concerns at this time, other than the fencing.

Lawrence asked if Vandereyk wanted 3-strand barbed wire on top. Are all others in the township 3-strand?

Vandereyk stated, Yes, all have been 3-strand in the township.

Lawrence again asked for any other comments from the commissioners regarding the Conditions that they had before them. There were no further comments from the commission.

Watts asked for confirmation that all Planning Commissioners agree that the Ordinance states, "or alternative approved by the Zoning Administrator" in terms of the landscape screening. Are we all in agreement on this?

Lawrence stated that they were not going to testify to that since the Ordinance is not in front of them, but assured Watts that his statement is a part of the record.

Riddle stated that as the Zoning Administrator, these are things that are looked at before the meeting, she will not agree to it at this meeting and we need to look at what is in front of us.

Lawrence stated that an administrative change is not typically done when the Planning Commission recommends approval.

Riddle stated that this is true. This has normally not been done this way. She interprets that as being something agreed to prior to the meeting. Someone may interpret this differently, but this is the way that she interprets it.

Lawrence asked Watts if he had further requests or comments.

Watts stated that he is surprised by that, but the Planning Commission has the plans in front of them if they would like to proceed with that rather than the Ordinance and consider alternative

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approaches, then lets continue with your process and if there are other comments from the Commissioners. We would respectfully request approval on the application.

Adams made a motion to close the Public Hearing. Pesch seconded. The motion carried and the Public Hearing was closed.

Lawrence asked the applicant if there are any concerns about meeting the Conditions.

Watts asked that if the Planning Commission made a recommendation of approval as applied for, is there an opportunity for the applicant to provide a written comment to the Board for consideration? For example, the West side screening contingency escrow language. Could the Board consider this?

Lawrence stated that the Planning Commission is a recommending body and that the County Board will take official action on this. If there is something that Watts would like to see changed, the County Board would be the final step. So, contacting them prior to April 6th so they can have this information. Commissioner Dolan is a part of the Planning Commission and has heard all of this discussion. He may be a first point of contact for you.

Watts stated the they are able to comply with all Conditions as written.

Vandereyk made a motion to recommend approval of the request for an Interim Use Permit for a 1 MW solar farm with the following (19) Conditions including a revision to #3 for chain link fence, with 3 strand barbed wire, Jehoich seconded.

Conditions:

1. Building permit required for on-site supply structure if over 200 sq ft in size.
2. Building permit required for installation of solar panels with engineered plans submitted.
3. If the required privacy fence around the perimeter of the facility exceeds 7 ft in height it will require a building permit with engineered plans. A chain link fence with 3-strand barbed wire will be constructed.
4. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.
5. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.
6. Property owner shall ensure that MPCA day & nighttime noise standards are not exceeded at any time.
7. Operational hours allowed during construction of the facility are Monday through Friday 7AM - 7PM.
8. Decommissioning of solar panels and related facilities must occur in the event the IUP expires or is terminated, and/or the solar panels are not in use for twelve (12) consecutive months. Must follow the Decommissioning & Reclamation plan date stamped January 28, 2021.

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9. Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$25,000 per MW, in favor of Sherburne County, to guarantee compliance with the decommissioning plan, site restoration and other terms of this Permit upon project termination or termination of this Permit. The financial security shall be in a form acceptable to the County and, at a minimum, shall consist of a cash escrow to be deposited with the County in an amount no less than 50% of the total required financial security, with an initial deposit of 25% of the total amount deposited prior to issuance of the building permit and eight and one-third percent (81/3%) of the total amount deposited annually for three years on or before the anniversary of the issuance of the building permit. The remaining amount of the total financial security shall be provided by way of an irrevocable letter of credit, which shall be in a form acceptable to the County Attorney's Office and provided prior to the issuance of a building permit, and shall meet the following minimum standards (additional standards may be required): the irrevocable letter of credit shall be issued by a federally chartered or State of Minnesota chartered banking institution with an branch office located within Sherburne County; shall be issued in the name of the County of Sherburne; shall be issued in an initial amount no less than 75% of the total financial security required by this Permit; shall permit the County to draw on the funds upon demand based on the County's determination of non-compliance with the terms of this Permit; shall be for an initial term to be established and shall automatically renew for additional terms unless the bank gives the County at least 60 day written notice of an intent to terminate the credit at the end of a term; shall permit the County to draw upon the letter of credit for the full amount in the event a replacement letter of credit acceptable to the County is not issued at least 30 days prior to the expiration of the existing letter of credit; and shall provide that the letter of credit may not be amended without the written permission of the County.
10. No activities may occur onsite until applicant submits a signed an interconnection agreement as required in Section 17, Subd 17 (1A) of the ordinance and proof that the scope of the project is permitted by the Minnesota Public Utilities Commission.
11. The site will be revegetated within 30 days after construction with a low growth & low maintenance native pollinator friendly seed mix not exceeding 24 inches in height. The property will be treated & maintained as needed during the spring & summer months to manage vegetation growth. Property owner will responsible for vegetation control & weed management during the project's operating life.
12. Must install 6 foot tall Techny Arborvitae trees around entire perimeter of the solar farm as shown on Landscape Buffer Plan (Attachment C) date stamped January 28, 2021. The trees must be planted staggered in two (2) rows, in each row the trees may be planted no more than 8 feet apart. All planted trees on the property must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.
13. This IUP is to be valid for 40 years until December 31, 2061. This IUP is valid for USS Golly Gee Solar LLC and John & Lynette Golly.
14. Access to the proposed solar farm shall be via CSAH#8 in the southwest corner of the property.
15. Decommissioning of project shall involve removal of all project components, including without limitation, solar panels, panel trackers, anchors, supports, mounts, inverters,

underground electrical components underground conduit housing & all underground footings & posts.

16. Signage and emergency contact numbers must be posted at the access driveway to property.
17. The findings in Section 18, Subd 6, Item 4 of the Zoning Ordinance have been made.
18. The applicant shall allow the County to inspect the property during normal business hours.
19. The applicant shall comply with all federal, state, and local laws and regulations.

FINDINGS:

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

Waytashek read the Findings while Vandereyk provided a response.

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES or NO** WHY?

The proposed location of the solar farm is in an existing agricultural field. The closest adjoining neighboring house is approximately 280 feet to the east. The remaining land adjacent to the solar farm is all agriculturally farmed properties. The perimeter of the solar farm will be planted with trees to reduce visual impacts to adjoining properties.

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES or NO** WHY?

The IUP will be valid for 40 years. If the property owner no longer wants solar panels the infrastructure may be removed and the site can either go back to farming or be utilized for a new use. The property the solar farm is proposed on is zoned Agricultural District and could not be subdivided to less than 40 acre properties under current zoning requirements.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES or NO** WHY?

Driveway access to CSAH #8 has been approved by the County Highway Department. Utility lines necessary to transfer the electricity exist adjacent to the property.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES or NO** Why?

There is plenty of parking available on this property needed for construction and operations.

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO** Why?

Construction of the site will cause short term noise and additional traffic. Once the solar farm construction is complete traffic will be minimal and consist of company vehicles inspecting the panels on a weekly/monthly basis

The motion carried with all members voting via roll call in favor (Aubol, Adams, Jehoich, Spencer, Nelson, Pesch, Demeules and Vandereyk) and the Interim Use Permit for a 1 MW Solar Farm is recommended for approval by the Planning Advisory Commission to the County Board

Closing:

Nelson made a motion to adjourn the meeting. Spencer seconded. The motion carried and the meeting was adjourned at 6:59pm.

Submitted by Carrie Winter, Secretary