

SHERBURNE C O U N T Y



*Sherburne County
Planning Advisory Commission Meeting Minutes
June 15, 2023
6:00pm*

The Sherburne County Planning Advisory Committee met in the Board Room at the Sherburne County Government Center in Elk River, Minnesota on June 15, 2023, 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 and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Adams called the meeting to order, and roll was taken.

The following members were present:

Chair, Brian Adams, Orrock Township; Vice Chair, Bruce Aubol, Big Lake Township; Terrance Vandereyk, Clear Lake Township; Steve Demeules, Palmer Township; Francine Larson, Blue Hill Township; Gary Gray, County Commissioner, District 4.

The following staff members were present:

Lynn Waytashek, Zoning Administrator; Zach Guttormson, Assistant Zoning Administrator, Marc Schneider, Senior Planner; Carrie Winter, Secretary.

Adams stated that the meeting was being recorded. Adams added that the Planning Commission is a recommending body. These items heard tonight at the Planning Commission Public Hearing will be heard by the County Board of Commissioners on July 18, 2023, at 7:00pm.

Aubol made a motion to approve the minutes from the May 18, 2023, Public Hearing. Demeules seconded. Motion carried, by consensus and the minutes were approved for the May 18, 2023, Public Hearing.

Larson made a motion to approve the Public Hearing Agenda for June 15, 2023. Aubol seconded. The motion carried, by consensus and the Public Hearing Agenda for June 15, 2023, was approved.

Agenda:

1. **Nick Christenson** (Property Owners Douglas and Deborah Robertson) Requesting an Interim Use Permit for a Temporary Business – Impound Lot
2. **James and Mary Hallila** Requesting a Text Amendment to the Sherburne County Zoning Ordinance Section 16.2 (Interim Use Permits), Subdivision 5.21 (Solar Farm) A. 3.
3. **Ziegler Monticello LLC** (Property Owner Nordic Investments LLLP) Requesting an Interim Use Permit for a Highway Planned Unit Development
4. **DIVOCSG 11** – Requesting an IUP for a Solar Farm

Agenda Item #1-6:03pm

Nick Christenson (Property Owners Douglas and Deborah Robertson) Requesting an Interim Use Permit for a Temporary Business – Impound Lot

PID 10-323-1407 Address: 20104 US Highway 10 NW Big Lake MN, Section 23 Big Lake Township on 3.17 Acres in the Industrial Zoning District.

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Written Description of Business
- C. Site Plan
- D. Insurance
- E. Site Photos

BIG LAKE TOWNSHIP: (Received May 25, 2023) The Big Lake township board of supervisors met on Wednesday, May 24, 2023, and reviewed the IUP application and information provided by the applicant. The Board members are recommending the temporary IUP be approved. Presuming it is approved by the county the Board would request the term of the IUP be two years (2 yrs) from the date it is granted by the county.

PLANNING & ZONING STAFF COMMENTS:

1. In April 2023, the Planning and Zoning Department received a complaint that Bob’s Towing & Recovery was utilizing the subject property as an impound lot without the necessary permits. A site inspection found approximately 20 vehicles stored within a fenced area on the northwest side of this property and confirmed the complaint was valid. A notice of violation was sent to the Owner and following that notice Bob’s Towing & Recovery requested an after the fact IUP for a Temporary Business to allow them to continue to use roughly .18 acres in the northwest corner of this 3.17-acre Industrial parcel to store impounded vehicles.
2. The Applicant is requesting to be allowed to operate from this site for a maximum of two years while he is working on establishing a permanent location for his business within the City of Big Lake.
3. This property is owned by Douglas and Deborah Robertson, who is selling the property on contract for deed to Todd Weidnor. Mr. Christenson will be leasing space to operate this business, both the owner and the contract for deed holder have signed this application.
4. The applicant is requesting to store up to 15 vehicles in the NW corner of this property see Site Plan Packet Attachment C. The area proposed to park vehicles occupies roughly .18 acres.
5. Bob’s Towing and Recovery has 10 employees that will come and go from the site 24/7 depending on when their service is requested. Owners of impounded vehicles are only allowed access to the property M-F 8am-5pm and weekends are 12pm-3pm all by appointment only.
6. No signage is proposed for this business.
7. Security of the site is by an existing fence and security cameras.
8. No service or dismantling of vehicles is proposed or permitted on site.

RECOMMENDED CONDITIONS IF APPROVED:

1. This Interim Use Permit is issued to Bob's Towing & Recovery for the duration of 2 years from County Board Approval July 18, 2023, for the purpose of a temporary impound lot. After which it will expire.
2. No service or dismantling of vehicles is permitted on site.
3. If any vehicle is brought on-site leaking fluids, fluids must be promptly drained and properly disposed.
4. Hours for impounding of vehicles by Bob's Towing and Recovery is 24/7 depending on when their services are needed.
5. Owners of impounded vehicles are only allowed access to the property M-F 8am-5pm and weekends are 12pm-3pm all by appointment only.
6. Vehicles shall be stored within the NW corner of the property as shown on Site Plan Board Packet Attachment C.
7. The number of vehicles is limited to 15 stored on the property.
8. The applicant and/or property owner shall permit the County to inspect the property at any time.
9. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.

Planning Commission Discussion Followed:

Adams asked if Bob's Towing is under contract with the City of Big Lake or with Sherburne County?

Schneider stated that he believes that Christenson is under contract with the City of Big Lake, and he has a Monticello location as well, suggesting that the applicant can elaborate.

Nick Christenson, 22228 167th St NW, Big Lake, came forward as the applicant. He stated that they do have a contract with Big Lake, Sherburne County and Becker Police. They want to store cars here until they get a building.

Demeules asked if 2 years will be long enough.

Christenson stated that 2 years should be sufficient; they close on the property on July 3rd.

Adams stated that he assumes some of the vehicles that they pick up are leaking oil or gas, is there an issue with this?

Christenson said that it should not be, they do have absorbent pads that can be put down if it is leaking. Most things are out of the vehicle, on the highway. In the 21 years that he has been doing this, this has not been an issue and efforts will be taken to make sure that this is not an issue.

Adams asked the applicant if he understands and can abide by the (9) recommended Conditions.

Christenson confirmed.

Adams opened the Public Hearing.

No one from the public was present nor were any written comments received.

Vandereyk moved to close the Public Hearing. Aubol seconded. The motion carried and the Public Hearing was closed.

Aubol made a motion to recommend approval of the request for an Interim Use Permit for a Temporary Business-Impound Lot, with the (9) recommended Conditions and Findings of Fact. Demeules Seconded.

Conditions:

1. This Interim Use Permit is issued to Bob's Towing & Recovery for the duration of 2 years from County Board Approval July 18, 2023, for the purpose of a temporary impound lot. After which it will expire.
2. No service or dismantling of vehicles is permitted on site.
3. If any vehicle is brought on-site leaking fluids, fluids must be promptly drained and properly disposed.
4. Hours for impounding of vehicles by Bob's Towing and Recovery is 24/7 depending on when their services are needed.
5. Owners of impounded vehicles are only allowed access to the property M-F 8am-5pm and weekends are 12pm-3pm all by appointment only.
6. Vehicles shall be stored within the NW corner of the property as shown on Site Plan Board Packet Attachment C.
7. The number of vehicles is limited to 15 stored on the property.
8. The applicant and/or property owner shall permit the County to inspect the property at any time.
9. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.

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

Schneider read the Findings while Aubol 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?

Yes, the property and surrounding lots are zoned industrial or commercial and the utilization of this land for a temporary impound lot will not impair property values as these lots have similar industrial/commercial uses.

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?

Yes, this IUP is being issued for only two years and is only going to be operated from .2 of an acre.

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

Yes, the property was previously developed and has adequate utilities, access and drainage for the proposed use.

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?

Yes, this site has adequate space for the limited used proposed by the applicant.

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?

Yes, this property is surrounded by properties that are zoned Commercial and Industrial. The proposed use will be in line with existing uses and the limited scope of the operation in relationship to neighboring uses will not cause a nuisance to neighboring properties.

The motion carried and the Interim Use Permit for a Temporary Business-Impound Lot is recommended, by consensus, to the County Board for approval, with the (9) Conditions and Findings of Fact.

Agenda Item #2 -6:11pm

James and Mary Hallila Requesting a Text Amendment to the Sherburne County Zoning Ordinance

Section 16.2 (Interim Use Permits), Subdivision 5.21 (Solar Farm) A. 3. to remove a portion of Section 25, Township 33 Range 28 with the exception of PID 10-325-3200.

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

PLANNING COMMISSION PACKET ATTACHMENTS:

- A. Application with reasons for the proposed amendments.
- B. Text of the Ordinance Amendment, submitted by the Applicant.
- C. Aerial Photo showing Affected Parcel
- A. Written Letter to County Board of Commissioners (2 pages)
- D. Map of 2019 solar probation

BIG LAKE TOWNSHIP COMMENTS (Received May 25, 2023): The Big Lake township board of supervisors met on Wednesday, May 24, 2023, and reviewed the application for ordinance amendment. The Board members are recommending the language in the ordinance be amended to include the text, as presented in the application.

STAFF COMMENTS:

The Sherburne County Planning and Zoning Department has received a request to amend the County's Zoning Ordinance (Packet Attachment A). James and Mary Hallila, property owners of three parcels in Section 25 and 36 of Big Lake Township PIDs 10-336-2235, 1105 and 10-325-3200 are requesting the County amend Section 16.2 (Interim Use Permit) Subdivision 5.21, A. 3 (Solar Farm). Applications for Ordinance Amendments from the public are not common, but the County's Zoning Ordinance Section 18 (Administration and Enforcement), Subdivision 4 (Amendment and Rezones) does provide that opportunity to the public.

The Hallila's approached the Planning and Zoning Dept. after they were informed by a perspective solar company that solar was prohibited by ordinance on their property and wanted to know why. Zoning staff explained to the Hallila's that in March of 2019, the County Board adopted a six-month moratorium on Interim Use Permits for solar farms and other solar energy systems along Highways 10, 25 and 169 in the Townships of Big Lake, Livonia and Baldwin to examine potential and planned land uses and transportation connections in these growth corridors and determine if they are appropriate for solar farms. Staff then explained the outcome of the moratorium was an Ordinance Amendment that established new prohibitions where solar farms can be developed in Sherburne County (see Board Packet Attachment E). The Hallila's stated they were not made aware of this prohibition and objected to it because it impacted their ability to utilize their property. In response to the prohibition, they have chosen to seek an Ordinance Amendment. Below is the applicant's proposed amendment (Board Packet Attachment B):

Section 16.2 Interim Use Permits, Subdivision 5.21 Solar Farm:

21. **Solar Farm**

- A. A Solar Farm shall be prohibited in the following areas:
- 3. Big Lake Township: areas within ½ mile of TH 10 and in all Sections 23, 24, Section 25 with the exception of PID 10-325-3200, 26, 35 and 36 Township 33, Range 28 and Section 27, 28, 29, 30, 31, 32, 33 and 34 Township 33, Range 27 north of CSAH 14.

The Amendment Application requires the applicant to provide responses to several questions, the questions and the applicant’s responses are provided below (Board Packet Attachment D):

- **Reason for Requested Change:** “Solar is the future - we have or had opportunity to make this available in the area and it could bring in revenue for the township.”
- **How will this Affect Other Area of the Ordinance:** “No affect - this will be constructed next to the solar garden already in place by the City of Big Lake.”
- **Describe How the Proposed Change in Text will be Compatible with the Comprehensive Plan:** “Solar gardens are usually a 25-30 year contract, therefore if needed for future growth with industrial or commercial interest the land space may become available. There has been no interest in the land for over 35 years, why have land sit dormant for who knows how long.”

The applicant also submitted a letter they sent to the Sherburne County Board of Commissioners in June of 2022, outlining the history of their property and their objection to the decision to prohibit solar farms along State Hwy 25 (Board Packet Attachment D).

To assist with the public record for the Hallila’s request, Zoning Staff will provide a summary of the actions that brought the County to establish the prohibition in discussion and what the current conditions are in this area.

SUMMARY OF MORATORIUM AND OUTCOME:

During the moratorium Zoning staff worked with the affected Townships (Baldwin, Big Lake and Livonia) to discuss solar related issues and to determine how solar farms fit within their growth corridors. The affected Townships provided their feedback and recommendations. The County also held a public hearing with the Sherburne County Planning Advisory Commission on July 18, 2019, to discuss the feedback received during the moratorium and summarize County staff’s recommendations.

On May 22, 2019, Big Lake Township provided the following comments related to the moratorium:

Recommended amending the Comprehensive Plan and Land Use Map to permanently restrict the areas identified in the Solar Moratorium Map. The Board also recommended a friendly amendment to the identified locations to include land adjacent to the north side of CSAH 14, currently defined as Agricultural District area, as well as land identified as potential future Trunk Highway 25 locations until a final crossing location is determined. (Map identifying this area will be filed with the minutes, as part of the official record) These areas they felt were important to protect included the current moratorium areas, are current prime agricultural land, future residential and industrial areas. Additionally, the Board would like to request Becker Township add the area on its easterly border to areas to be preserved, which have been identified as potential future Highway 25 locations until a final crossing location is determined.

On July 18, 2019, a public hearing was held to discuss the Solar Moratorium and a proposed Solar Ordinance Amendment. The following are the Zoning Staff Comments provided at the public hearing.

Sherburne County supports regional planning efforts and recognizes the need to expand the transportation connection between TH 10 and Interstate Hwy 94. The County is a member of the Highway 25 Coalition, which has commissioned a transportation study to identify potential areas for future major transportation corridors linking TH 10 and Interstate Hwy 94. In order to support the ongoing regional transportation planning efforts and to avoid conflicting land uses, it is important that the County's zoning ordinance provides for only appropriate land uses in these areas.

In addition, the County's Comprehensive Plan identifies that the land uses in area should be preserved in the short term so that after the regional transportation planning is completed, the area can be appropriately developed. 2010-2030 Comprehensive Plan, Goal #3: Economic Development, Policy 1: Business Development, Implementation 10-2: Consider reserving undeveloped U.S. and state trunk highway corridors for future commercial and industrial development. Allow appropriate commercial and industrial development within these corridors in areas accessible by local roads (i.e., no direct access onto U.S. and state trunk highways). Reserving these corridors for future development effectively preserves the area's rural character in the near-term.

During the moratorium review process, Township identified additional lands north of CSAH 14 and west of Co Rd 43 to be included in the proposed zoning amendments, in order to preserve the prime agricultural land and provide for future residential and industrial areas. This is largely being accomplished now through the Agricultural zoning classification. This Zoning district restricts residential subdivisions to 5 acres or less and the parcel must be 75 percent wooded. The majority of the land within the above is not wooded and is not eligible to be subdivided and is therefore being preserved for as prime agricultural land. The only large-scale non-agricultural use that would be allowed in this area under the current zoning classification is solar farms. Staff agrees that permitting solar farms in this area is inconsistent with the goal of preserving prime agricultural land and associated residential use (non-subdivision).

No public comments were received during the public hearing and the Planning Advisory Commission recommend approval of the following ordinance amendment which the County Board adopted on August 6, 2019. (Approved amendment is show underlined in red)

Section 16.2 Interim Use Permits, Subdivision 5.21 Solar Farm:

21. Solar Farm

- A. A Solar Farm shall be prohibited in the following areas:
 - 1. On parcels less than 5 acres in size.
 - 2. Baldwin Township: areas within ½ mile of HWY 169.
 - 3. Big Lake Township: areas within ½ mile of TH 10 and in all Sections, 23, 24, 25, 26, 35 and 36 Township 33, Range 28 and Section 27, 28, 29, 30, 31 32, 33 and 34 Township 33, Range 27 north of CSAH 14.
 - 4. Livonia Township: areas within ½ mile of HWY 169.
 - ~~5.2-~~ Shoreland Districts designated by the Department of Natural Resources;

- ~~6.3.~~ Within wetlands to the extent required by the Minnesota Wetlands Conservation Act.
- ~~7.4.~~ Within the Mississippi and Rum Scenic, Recreational River, and Special Use Districts.

(See Board Attachment E, Map of Prohibited Solar Farm areas).

CURRENT STUDIES:

There are two major studies taking place by the County that Zoning staff believe should be considered by the Planning Commission and County Board when acting on this proposed amendment request.

For the past year the County has been in the process of rewriting its Comprehensive Land Use Plan which is anticipated to be complete in August of 2023. The pressure solar farms have place on land between TH 10 and the Mississippi River from Big Lake Township to Haven Township is significant. Along this corridor there are two permitted and with a third proposed large scale solar projects which will occupy over 3,500 acres that are permitted by the Public Utility Commission (PUC). Sherburne County has also approved 28 1-5 Megawatt private solar farms in this corridor. The impact these solar projects will have on farming and the rural character of these communities is being evaluated as part of the Comprehensive Plan rewrite. The rewrite will also require the County to evaluate our current practices related to solar farms and develop a new policy with supporting strategies to determine how the County wants to manage the establishment of new solar farms in the future.

With the Support of Central Mississippi River Planning Partnership (formally Highway 25 Coalition) Sherburne and Wright County have identified a need to analyze and evaluate the State Trunk Highway 25 corridor and surrounding area between Interstate 94 to TH 10. The two counties have established a Joint Powers Agreement to enter into a Federal Planning and Environmental Linkages Study (PEL) of TH 25 area between Interstate 94 and TH 10 to consider the benefits and impact of proposed transportation system improvements. The completion of this study is anticipated to be August 30, 2024, which will report on the federal Purpose and Need statement and begin to refine the area transportation needs. The Federal PEL Study will also look at the feasibility of the transportation system's effect on communities, environment and land use.

STAFF RECOMMENDATION:

It is uncommon for the County to amend the ordinance for a specific parcel. County ordinances are meant to provide guidelines to ensure planned, orderly and staged development that is consistent with the comprehensive plan. When the County and Township reviewed and discussed where solar farms should be prohibited during the 2019 moratorium, it was our determination that it was in the best interest of orderly development to limit solar within a ½ mile of HWY 169 and TH HWY 10 and several sections in Big Lake Township between the Mississippi River and TH HWY 10 and the County's Comprehensive Land Use Plan supported that action. With the massive expansion of solar in Sherburne County there is need to look at if our current policy and regulations are sufficient to manage solar in an orderly manner.

Zoning staff acknowledges Big Lake Township's recommendation to approve the ordinance amendment, however the applicant's request only asks us to evaluate their property which is applicable to the overall discussion, but it fails to meet a justifiable standard we should be using. Does this ordinance amendment ensure orderly and staged development that is consistent with the Comp Plan? Staff

recommends denial of this request but ask the Planning Commission and County Board to support the continued evaluation of what is practical policies and standards for solar moving forward in the County.

PLANNING ADVISORY COMMISSIONS REASONS FOR RECOMMENDING APPROVAL OR DENIAL

Zoning staff is requesting the Planning Commission to provide their reasons for recommending approval or denial of this request.

Planning Commission Discussion Followed:

Adams asked about Packet Attachment C and when the solar farm on the North side (of the Hallila property) was put in.

Schneider stated that this parcel is in the City of Big Lake and deferred to Waytashek for a date of approval for this solar farm.

Waytashek guesses that this was 5-6 years ago.

Adams asked if this was prior to the moratorium.

Schneider confirmed.

Waytashek added that multiple variances were applied for on this parcel and they were not approved, so they annexed this parcel into the city and then the solar farm was built; this is owned by the city of Big Lake.

Schneider then explained that the solar farm (on Packet Attachment C) that is to the South of Hwy 25, is the solar farm that was before the Planning Commission last month requesting an amendment. There is also another Solar Farm to the North, Sanford.

Aubol added that Sanford is by Cty Rd 50 as one of the first that went in, far before the moratorium.

Demeules asked if the transportation issue is still a question mark or if there is any more detail indicating what they are going to do.

Schneider replied that it is still in discussion. This is the PEL study that is still underway with Wright and Sherburne Counties, in the amount of \$900,000 and the area is still broad. This PEL study talks about the boundaries of this study and if there is an issue with congestion in the area that is slowing down quality of life, development, economic conditions, social conditions, etc., and evaluating if transportation is the solution. Crossing the river is a challenging matter. This study showed proposed locations and put the cart ahead of the horse. This is not the way that the State and Feds look at this. They evaluate this against a lot of criteria that goes beyond a high-level evaluation. We are still looking at a transportation solution, and CMRP (Central Mississippi River Planning) would say that this is a river crossing issue. According to the Federal Highway, this is a corridor issue between Highway 10 and Interstate 94. Through this PEL study, we are evaluating if a transportation issue is the right course, and if it is to focus on the solution. There are steps that need to be followed and these steps are occurring now.

Adams stated that he can't imagine expanding Highway 25 as Monticello already has congestion.

Schneider stated that CMRP is looking at other transportation solutions and alternatives.

Vandereyk asked why parcel 10-325-3101 was not exempted?

Schneider stated that this was an existing use and was prior to the moratorium.

Vandereyk asked if 10-325-3200 was exempt?

Schneider replied that this is the applicant's request.

Waytashek stated that 10-325-3101 and 65-325-3201 were constructed prior to the moratorium. The issue came up with the river crossing and they talked to townships and the moratorium was then approved by County Board, to preserve the rest of this area in case of the bridge crossing.

Aubol confirmed that 65-125-3201 was annexed into the city of Big Lake for 30 acres.

Hallila stated that this was 26 acres.

Adams reiterated that these solar farms were constructed prior to the moratorium.

Vandereyk confirmed his understanding but stated that Packet Attachment E shows the City of Big Lake parcel as an exemption, but not the other parcel (10-325-3101).

Schneider stated that the applicant owns 3 parcels out here but is asking that only the 1 parcel be taken out of prohibition for solar (10-325-3200). Whereas 65-125-3201 and 10-325-3101 were existing prior to the moratorium. Schneider stated that Packet Attachment E shows 65-125-3201 because that is within the city limits.

Waytashek added that we do not have jurisdiction in the city, this is why it's a different color; to show the city limits.

Jim Hallila, 3074 142nd St NW, Monticello, came forward as the applicant.

Adams asked that Hallila assist with an understanding of the parcels.

Hallila stated that they sold the 30-acre parcel to the City of Big Lake back in 1993. He put a restriction on this parcel when he sold it that they had to keep an airport clearance as he had run this as an airport for 10 years. Everything that they did was for the community. He retired in 2007 from the nuclear plant. When they sold this to the City of Big Lake, they wanted to put in Soccer fields and other things and he told them as long as they keep it a 12/1 ratio (for every 12 ft back, you can come up 1 ft) so that he can go back to an airport. He asked them how big the poles would be for the lights on a soccer field. They quit this idea and then came up with the idea of Solar Gardens and said that this would help him in

the future if he wanted to put in a solar garden. He thought that this would be good to supplement his retirement rather than the \$40 from the farmers. Farmers no longer want to farm it as it is sand and there is no irrigation. They inquired with many businesses, such as Lowes, Fleet Farm, Kwik Trip and they want to be near a major intersection or by the freeway. No one is interested in this property; they say it's a dust bowl when the wind blows, there is no city sewer and water. When this was run as an airport, they let the City of Big Lake dump their sludge when they cleaned their sewer plant, this ended when the EPA said that they can't do this unless they monitor the wells. Then they asked if he would sell them some land, and this is when he sold 30 acres to the city. In the meantime, the County decided that they wanted to make 200th St into a County Road so they wanted to buy some land back for a 100 ft Right-of-Way. He told them that he wasn't going to sell any more land, but they could buy back from Big Lake, what was sold to them. They bought 4 acres from the City, so the City had 26 acres, but needed 30 for a solar garden at that time, so 4 acres of Hallila's property is currently solar garden and they have no other alternative. They have nobody interested in it for industry. They have tried everyone, if he could get a big business in there, doesn't the Board think that he would do it? He said, let's do solar. They have had (3) solar contracts signed and did not know about this restriction and he has spent a lot of money on lawyer fees to read these contracts. The solar people were the ones to find out about these restrictions. All of those solar contracts expired after 3 years so this has been going on for a long time. Schneider was talking about a highway going from Hwy 10 to Interstate 94 and that this property may be involved. How would his property be involved and how is he going to cross Highway 25 with all of the million-dollar houses along the river and how would his property get them to Interstate 94? The last time they talked about a river crossing Hallila took someone from Mn Dot up in his airplane and showed him that the best crossing is where Hwy 25 hits Becker and goes straight across to a bridge on Cty Rd 11. There are no houses, it's all farmland and Sherco land. He agreed and then they tore down the bridge in Clearwater and redid it. He is bound by County Rd 17, and he can't do anything there. They have solar across the road and solar adjacent to their land of which 4 acres are on their land. They found out about this restriction and are asking for the removal of it.

Vandereyk acknowledged his understanding.

Adams stated that he sympathizes with the applicant as he has 2 solar farms that are close by, but he is concerned that these 2 studies are not done.

Hallila stated that Schneider's study was talking about a road, not until 2038 and he's 75 years old.

Adams replied that the transportation study should be done in a couple of years and the Comprehensive Plan will be done in September/October.

Schneider confirmed that the Comprehensive Plan should be complete in September.

Hallila stated that solar farms are not permanent; they have 25 years on them, then they go back. Then asked, if solar farms are considered Commercial or Industrial and if that's why the restriction is on, because we want that use?

Adams replied that the restriction has more to do with the technology.

Hallila stated that after 25 years it goes back. The only alternative that he sees is to put it into CRP and let it grow into weeds and he gets nothing for that. This was finally going to be the supplement to his retirement.

Adams opened the Public Hearing.

Nathan Dull, 2225 Jeffrey Allen Drive, Shakopee MN came forward on behalf of the Minnesota Land and Liberty Coalition, they are a grassroots operation made up of farmers, landowners, taxpayers, rate payers, and those who support all of the above as an energy solution in Minnesota. He wanted to express the support of this exemption because this proposed portion of land is adjacent to other existing solar projects so that highway is not being expanded as long as both of those projects are there. In the meantime, why not put it to use and benefit the landowners.

Aubol made a motion to close the Public Hearing. Demeules seconded.

The motion carried and the Public Hearing was closed.

Aubol made a motion to amend the moratorium to allow this. Vandereyk seconded.

Schneider stated that staff is requesting that the Planning Commission state a reason for recommending approval or denial so that the County Board can take this into consideration.

Aubol stated that his reason for recommending his approval is the proximity of the other solar farms, the delay in the river crossing or highway construction for possibly 20 years, the plight of the property owner to fill this property with solar, Aubol can't find a reason to object.

Adams stated that he is hesitant due to the Comprehensive Plan but agrees with Aubol on the transportation. Adams then asked about the Comprehensive Plan and if this will change anything on this property?

Schneider stated that the Comprehensive Plan will not change anything on this property, it will be an Ordinance Amendment that will affect this property and other properties in the area. The Comprehensive Plan will establish a policy for solar. Staff is not crazy about amending the Ordinance for a single parcel and recommends denial but asks the Planning Commission for their continued support as we figure out the best solution for solar in Sherburne County. Sherburne County has a significant amount of Solar for the region.

Adams asked how long it will be before we are ready to make this determination?

Schneider replied that the policy connected to solar should be coming to the Planning Commission in August with the goal of adoption in September.

Adams asked if we are setting a dangerous precedent by making this exception.

Schneider replied that it is not good planning practice. We typically don't amend an Ordinance for a particular parcel.

Adams agreed, but in this case, there are 2 solar farms within throwing distance.

Schneider stated that this was the applicant's option forward. They can have proposed different language to amend in the Ordinance, but an Ordinance Amendment was their only course of action.

Vandereyk asked if it's possible for the city of Big Lake to (annex this property).

Schneider stated that there is something in the Orderly Annexation Agreement with the city that precludes this property from going into the city limits.

Waytashek stated that this was a resolution.

Aubol stated that it was unusual that the city owned that land, and in most annexations they do own the land, but the City of Big Lake and Big Lake Township have an agreement if they are approached by a citizen who wants to avail their land to the city, and has property contiguous to the city, they allow the property owner to proceed, without objection, they don't want to have a hostile annexation.

Hallila stated that everything they did, for the County, when they ran the airport, this was for the community. They bought the property in 1988. This was a federal licensed airport, and any money that was spent came out of his pocket, they didn't ask the surrounding municipalities for money. The only reason that they shut down the airport was due to the tornado in 1997 when all of the airplanes that were not in a building got destroyed. The insurance was costing them and Hallila couldn't afford to fly anymore. They mowed all the grass; they had an old County dump truck that they used to plow the snow in the winter. The only thing that the State contributed was a windsock and a pole. Everything they have done is for the community and now he feels like the community is sticking a knife in his back. Big Lake only owns 26 acres, and they needed 30 acres so 4 of the acres of the current solar farm are on Hallila's land.

Schneider clarified that there is an Interim Use Permit on this property for the utility poles to support the solar farm.

Hallila added; the infrastructure is already there.

Demeules stated that he is concerned about the moratorium and what this will mean.

Adams agreed that he has this concern as well, and the property owner has legitimate concerns. Until the moratorium ends and the Comprehensive Plan is complete, this seems premature. We may be better off reviewing this in 6 months to 1 year when these other studies are completed.

Gray stated that the makeup of the County Board has changed since 2019 and he doesn't know how the County Board will react to this when it comes to the County Board. He is sympathetic to the property owner and what he wants to do here. He also understands the staff's desire for planning. This bridge going through could be 15-20 years down the road and this solar farm may expire its lease by the time the bridge goes through. All of these are questions that will have to be gone through. The applicant could potentially change the lease to accommodate some of that. This is a tough situation; on both sides of it.

With the motion and a second to recommend approval to the County Board, a roll call vote was taken:

In Favor-Aubol and Vandereyk

Against-Larson, Demeules and Adams

The motion to approve the request for a Text Amendment to the Sherburne County Ordinance is recommended for denial, by consensus to the County Board.

Adams stated that this decision will be up to the County Board and is a tough decision.

Hallila stated that if he was notified in 2019, then he would have been here to object at that time, and they would not be here now. He is paying the taxes on his land and the County couldn't send out 3 notices.

Hallila asked if there is a way that he can get tax exempt.

Adams stated that Hallila will need to go to the County Board.

Schneider confirmed that the Planning Commission has made a recommendation for denial and the County Board will make the final decision.

Agenda Item #3 -6:52pm

Ziegler Monticello LLC (Property Owner Nordic Investments LLLP) Requesting an Interim Use Permit for a Highway Planned Unit Development – Construction Equipment and E-Truck dealership with office, service shop, parts, warehouse and future solar panel installation business.

PID 10-335 1400 Address: 18640 200th Street NW, Section 35 Big Lake Township on 57.14 Acres in the Industrial Zoning District.

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

BOARD PACKET ATTACHMENTS:

- B. Aerial Photo
- C. Written Description of Business (4 pages)
- D. Site Plan/Existing Contours of the Property (2 pages)
- E. Building Floor Plan

BIG LAKE TOWNSHIP: (Received May25, 2023) The Big Lake township board of supervisors met on Wednesday, May 24, 2023, and reviewed the IUP application and information provided by the applicant. The Board members think this location is ideal for the business which is being proposed by the applicant and are recommending the IUP be approved.

Tom Cruikshank, MnDOT (June 1, 2023) Following up on this IUP app for the Ziegler dealership. We do not see any issues to pass along on this change of use for the property with highway 25 and the intersection with 200th St.

David Roedel, Deputy County Engineer (June 6, 2023) in a discussion with Zoning staff, Public Works has no objection as they are only proposing to use the access to County Road 14 for emergency access only.

PLANNING & ZONING STAFF COMMENTS:

1. Ziegler Monticello LLC has a pending purchase agreement to buy 18640 200th Street NW to establish a new location for their service and sales operation. Ziegler is the Caterpillar dealer for Minnesota and Northern Iowa, and they have 29 locations between the two states and employ 2,400 people. They are proposing to utilize this property as a dealership for construction equipment and their new e-truck with offices, service shop, parts warehouse and future solar panel installation from this 57-acre Industrial Zoned parcel.
2. This parcel previously housed the business of MN Limited which operated under a Conditional Use Permit for a Highway PUD as a large contractor’s yard, which has been sold and relocated. A condition of approval of that PUD was any new use required an amendment. The only option to incorporate the broad range of uses proposed by applicant is to request a new Highway PUD.
3. The application is not proposing to make any expansion to the existing structure and has stated that there are no planned changes to the outdoor storage area or the parking lots as they are sufficient for their needs.
4. There are no plans to display any equipment along State Hwy 25. A display pad is shown on the Site Plan (Packet Attachment C) that is inside the vegetated berm northwest of building.

5. In the future the applicant intends to sell solar panels. They are proposing to install solar panels on this property that will be for demonstration and will be for power generation for the building. The location of the proposed solar panels can be seen on the Site Plan (Packet Attachment C)
6. According to the applicant there will be 3 types of traffic to this site and the following is based on a normal workday:
 - a. Staff / worker vehicles for a total of 50 each day.
 - b. Small customer vehicles and delivery trucks for a total of 25 each day.
 - c. Over the road trucks for delivery of customer equipment to be repaired and delivery trucks for a total of 25 each day.
7. Access to the property will be via the existing main access of State Hwy 25 and access to County Road 14 is for emergency access only, no physical changes to the access are proposed.
8. The applicant is requesting the ability to operate this facility 24 hours a day and 7 days a week under peak times. The work after 10 pm is generally associated with equipment repair which will be done inside the service shop with the doors shut.
9. Estimated staffing for any shift of work is 50 employees.
10. They are proposing only a site pylon sign and a building mounted sign along with directional signage.
11. Ziegler is considered a small waste generator and contracts with a licensed vendor (OSI) for all their waste disposal.

RECOMMENDED CONDITIONS IF APPROVED:

1. In accordance with Section 16.2, Subd 5.16(5) of the Sherburne County Zoning Ordinance; a developer's agreement must be signed with the township and/or the County as specified in the interim use permit.
2. This Interim Use Permit for a Highway Planned Unit Development is issued to Ziegler Monticello LLC for the purpose of Construction Equipment and E-Truck dealership and rental with office, service shop, parts, warehouse, light machinery and equipment sales, and future solar panel sales business. Any change of use or additional uses on this property shall require an amendment to this IUP.
3. These conditions of approval and the Board's Packet shall serve as the Operational Plan and will become a part of the approved interim use permit.
4. Hours of operation 24 hours a day 7 days a week. Work after 6 pm shall be done inside the service shop with all doors shut.
5. All activities on site must comply with MN Rule 7030.0040 Noise Standards. If complaints arise related to the noise levels, the permit holder will need to run a sound level meter during business hours to ensure compliance with MN Rule 7030.40. The permit holder will supply the County with records of the noise level test.
6. All business equipment and vehicles shall be stored or parked inside the delineated outside storage area or the display pad shown on the Board's Packet Attachment C.
7. Existing berms, landscaping and vegetation shall be maintained to ensure exterior storage is screened from public roads and existing residentially used properties. Any dead trees must be replaced on a yearly basis.
8. Any signage shall comply with the County's sign ordinance, a sign permit is required.
9. Road access will remain via State Hwy 25. Existing access to County Road 14 is for emergency access only, gate shall remain closed.
10. Exterior lighting shall be directed away from residences and the public right-of-way.
11. All hazardous materials shall be disposed of according to MPCA and OSHA standards.

12. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.

Planning Commission Discussion Followed:

Adams asked if Minnesota Limited had a CUP as well?

Schneider replied that they operated under an IUP for a Highway PUD.

Wayne Hilbert, CNH Architects 7300 W, 147th St, Apple Valley, who does some of the consulting for Ziegler and Tary Draper, Ziegler/ Caterpillar, 901 West 94th St, Bloomington came forward as the applicants.

Draper stated that he would like to amend Condition #4, regarding hours, they would like to go until midnight. The normal hours of operation are 6-Midnight. This would allow for a third shift, but they would not be operating equipment outside. He understands that this is for noise, and they will be considerably quieter than the previous folks that were there. Doors will be opened since there is no AC, tools are electric and are quiet.

Aubol asked for clarification on which Condition is being discussed.

Schneider confirmed that it's recommended Condition #4 regarding the doors being shut while work is going on inside the building.

Draper clarified that they will be working inside, with the doors open, until midnight.

Hilbert added that this is for the summertime when it's hot outside.

Schneider asked for clarification on the volume of noise for the tools.

Draper explained that they are electric tools.

Schneider stated that this is a good fit for this property and is almost turnkey and in their right up, they have implied that their use will be less than Minnesota Limited was. He asked the applicants to give a summary of how the business would operate from this site.

Draper stated that they are the Caterpillar dealer for Minnesota and Iowa. They sell it, they do not manufacture it there, they are a dealer and sell new and used equipment. They repair equipment, rent the equipment and will be selling E-trucks. The office will be used to house some of the staff that is relocating from the Bloomington location.

Demeules stated that he ran a shop for many years and if he had to tell the employees that they couldn't open the doors, he wouldn't have too many still around.

Aubol asked about the orientation of the building and the doors that would be open, it would be exposed to Agriculture and the yard, not up to a neighborhood.

Demeules suggested that the doors be closed at midnight, as the applicant has requested.

Adams reiterated, work after 6:00pm shall be done inside and doors may be open until mid-night.

Aubol suggested that the “overhead doors be lowered at midnight” as wording.

Guttormson added that when they met with the applicant, he was surprised to learn the duration of time that it takes to repair a single vehicle.

Hilbert stated that this is heavy equipment, so these vehicles are not turning over every hour.

Draper stated that this could be up to a month for a complete rebuild or more; they do a lot of these and are looking at this area for that.

Adams suggested wording change as, doors closed until 12:00am and everything else stays the same.

Gray asked what the current use is.

Schneider replied that it was a company called Minnesota Limited and they did underground piping. This business has moved on.

Gray asked if there were restrictions on their hours.

Schneider does not believe that there were restrictions.

Draper added that the owner had said that there were no restrictions and they had 24/7 as well.

Aubol asked if Zeigler will be owning or renting this property.

Draper replied that if everything can get squared away, they will be purchasing in August.

Larson asked if this would impact the power grid for the neighbors since everything is electric.

Draper replied no, these are battery operated hand tools.

Larson asked if there will be a charging station for the e-trucks.

Draper replied that there will be a charging station for the 1 truck that will be on the property; they will not have inventory or take trades.

Vandereyk asked if the existing PUD will be revoked?

Schneider stated that we can recommend revocation, but the applicant must choose to do this.

Adams asked what the benefits of revoking would be.

Schneider replied that it makes things a little cleaner, without that outstanding CUP, when this was reviewed with counsel, it was not something that we chose to recommend.

Adams opened the Public Hearing.

Leo Schroden, 20078 Cty Rd 14, Big Lake came forward and he asked if the buildings that Minnesota Limited put up, will they be used for maintenance?

Draper replied that the longer white building will be parts storage and the others are to be removed prior to purchase.

Schroder asked if they are proposing to do anything to the woods area.

Draper said no. They will not be expanding the yard.

Schroden asked if drainage is adequate.

Draper confirmed.

Schroden stated that the applicant's property is fully industrial and that his is residential. They are concerned about noise.

Draper said that they will be quieter than the previous neighbors. We are good neighbors.

Schroden said Welcome to the area.

Kay Schroden, 20078 Cty Rd 14, Big Lake came forward. She is concerned about the noise. She believes that Minnesota Limited had an agreement on closing time. Midnight is late for grandkids sleeping over and her husband who likes to go to bed at 7:30.

Schneider stated that he did receive some calls which he was able to resolve after an explanation of the application and the recommended Conditions. The concerns were about the access onto County Rd 14, which is an emergency access only and about the woods. This has been addressed in Condition #7.

Aubol moved to close the Public Hearing. Larson seconded. The motion carried and the Public Hearing was closed.

Demeules asked if the emergency exit is existing.

Aubol confirmed.

Aubol made a motion to recommend approval of the request for an Interim Use Permit for a Highway Planned Unit Development – Construction Equipment and E-Truck dealership with office, service shop, parts, warehouse and future solar panel installation business, with the (12) recommended Conditions, including the modification to Condition #4, and Findings of Fact. Larson Seconded.

Conditions:

1. In accordance with Section 16.2, Subd 5.16(5) of the Sherburne County Zoning Ordinance; a developer's agreement must be signed with the township and/or the County as specified in the interim use permit.
2. This Interim Use Permit for a Highway Planned Unit Development is issued to Ziegler Monticello LLC for the purpose of Construction Equipment and E-Truck dealership and rental with office, service shop, parts, warehouse, light machinery and equipment sales, and future solar panel sales business. Any change of use or additional uses on this property shall require an amendment to this IUP.
3. These conditions of approval and the Board's Packet shall serve as the Operational Plan and will become a part of the approved interim use permit.
4. Hours of operation 24 hours a day 7 days a week. Work after 6 pm shall be done inside the service shop with the overhead doors to be closed at 12:00am (Midnight).
5. All activities on site must comply with MN Rule 7030.0040 Noise Standards. If complaints arise related to the noise levels, the permit holder will need to run a sound level meter during business hours to ensure compliance with MN Rule 7030.40. The permit holder will supply the County with records of the noise level test.
6. All business equipment and vehicles shall be stored or parked inside the delineated outside storage area or the display pad shown on the Board's Packet Attachment C.
7. Existing berms, landscaping and vegetation shall be maintained to ensure exterior storage is screened from public roads and existing residentially used properties. Any dead trees must be replaced on a yearly basis.
8. Any signage shall comply with the County's sign ordinance, a sign permit is required.
9. Road access will remain via State Hwy 25. Existing access to County Road 14 is for emergency access only, gate shall remain closed.
10. Exterior lighting shall be directed away from residences and the public right-of-way.
11. All hazardous materials shall be disposed of according to MPCA and OSHA standards.
12. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.

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

Schneider read the Findings while Aubol 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?

Yes, 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. Since 2007 this property has operated as a large contractor's yard and this use will be similar.

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?

Yes, the County's Zoning Ordinance Section 16.2 (Interim Uses), Subd. 5.16 (Planned Unit Development Highway) allows the establishment of a business on lands that abut a State or US Highway if it is found to be appropriate use that will serve the local marketplace. The development of this property will not impede development on the surrounding properties and this new use should not adversely impact future development.

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

Yes, when this property was developed, adequate utilities, roads, and drainage were established. The applicant is not requesting to modify these improvements.

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?

Yes, the applicant has sufficient parking space to accommodate the proposed use in accordance with the County per their site plan.

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?

Yes, the Conditions of approval should ensure that the Applicant's proposed plans for development will not constitute a nuisance to neighboring landowners.

The motion carried, by consensus, and the request for an Interim Use Permit for a Highway Planned Unit Development – Construction Equipment and E-Truck dealership with office, service shop, parts, warehouse and future solar panel installation business, with the (12) recommended Conditions and Findings of Fact, is recommended to the County Board for approval.

Agenda Item #5 – 7:15pm

DIVOSCG 11 (John & Lynette Golly) Request an Interim Use Permit for a 1 MW Solar Farm
PID# 20-129-4100 Section 29, Twp 34, Rge 29, Clear Lake Twp. Total acreage 41.63 acres in the Agricultural District.

Lynn Waytashek, 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 June 6, 2023) /Revised Site Plan Received June 12, 2023
- C. Project Description Plan (date stamped May 2, 2023)
Decommissioning Plan

CLEAR LAKE TOWNSHIP COMMENTS (May 16, 2023): Township recommends approval of this solar farm as long as all county requirements are met. Clear Lake Township prefers a chain link fence.

DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (May 25, 2023): Public Works will require that the recently constructed access serving the recently developed project to the east will be utilized. Coordinate with Public Works on exact location.

PLANNING & ZONING STAFF COMMENTS:

1. DIVOSCG 11 is proposing to place a 1 MW solar farm on this property. There are two (2) 1 MW solar farms that have been approved on this property. USS Golly Gee Solar LLC has pulled a building permit. MN CSG 2019-33 LLC received IUP approval in 2022, but they have not submitted the building permit. This will be the third solar farm on this property.
2. They are proposing to have three (3) new utility poles for this solar farm for connection with Xcel Energy. The new poles are located adjacent to CSAH #8.
3. Site will have approximately 2,800 tracker solar panels. The racking system is installed in the ground with pilings at a depth of 6 ft – 10 ft. The solar panels are trackers that will follow the sun.
4. Applicant will plant White Spruce and Norway Pine trees on the west, north and south sides of the solar farm. There is a solar farm approved on this property to the east. Provided the solar farm to the east is constructed, no trees will need to be planted on the east side of this property. If the solar farm to the east is not constructed either White Spruce, Norway Pine or a mixture will need to be planted on this east site of DIVOSCG 11 solar farm.
5. A 7 ft high, non-electric chain link fence will be placed around the solar farm.
6. Access to the proposed solar farm shall be from CSAH# 8 utilizing the existing access from the solar farm to the east.
7. All above and below ground solar components must be removed from the property when the solar farm is decommissioned.
8. 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. Plans must match approved IUP plans.
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 7 ft high non-electric chain link fence 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 plan date stamped May 2, 2023.
9. Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$100,000 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 (8 1/3%) 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 a 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 be responsible for vegetation control & weed management during the project's operating life.
12. Must install 6 foot tall White Spruce and Norway Pine trees along the north, south and west portions of the solar farm as shown on site plan (Attachment B) date stamped, April 4, 2023. Trees will not

need to be planted on the east side of the solar farm if there already exists a solar farm directly adjacent to the east. The trees must be planted staggered in two (2) rows, in each row the trees may be planted no more than 16 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 35 years until December 31, 2058. This IUP is valid for DIVOCSG 11 LLC and John & Lynette Golly.
14. Public Works will require that the recently constructed access on CSAH # 8 serving the recently developed project to the east will be utilized. Coordinate with Public Works on exact location.
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 including 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:

Waytashek handed out new plans with a chain link fence, these were received on June 12, 2023. Waytashek stated that this will be the third solar farm on this property and an application for a fourth was received today for an additional solar farm to the West of this proposal. There are 2 solar farms on this property that have been approved, these are to the East of this proposal. These are all on the same PID.

Courtney O'Connor, Gordian Energy Systems, came forward as representative of the application, 3915 Coolidge Ave, Baltimore.

Adams asked the applicant if they understand and can abide by the (19) recommended Conditions.

Applicant asked about Condition #2, and if this is in reference to the project not moving? Engineered plans for stormwater have not been done yet and the basin may shift slightly.

Waytashek replied that we may be okay with the shifting of the stormwater basin, but not the panels or anything of that nature.

O'Connor stated that if the basin needs to shift North, this may impact other things needing to shift, like the row of panels.

Waytashek replied that plans are to match what is proposed and if there are any changes, then they may need to apply for a new IUP and go through the process again.

O'Connor asked even if this is due to the engineering?

Waytashek replied that it depends on how much of a change, if it's very minimal she may be okay with it; if it's something that Waytashek deems as significant, then they would need to go through the IUP process again.

O'Connor confirmed her understanding and then asked about Condition #12 and the trees if there is a new applicant that is approved for a solar farm to the West, would they need tree screening.

Waytashek replied, if the new one gets approved. We can amend this Condition to say that if the potential solar farm pulls a permit prior to completion of this solar farm, then no trees would be needed on the Western portion of the solar farm. The challenge is, if a solar farm is approved, but then is not constructed. This has happened. We need to be careful that we don't eliminate that option in the event that the other solar farm would not be approved or would not be constructed.

Demeules asked if we will be planting trees to kill them later.

Waytashek replied that they are to be watering them and if they are watered, then they do live.

Demeules stated that all that he sees are dead trees around these things and it's a waste.

O'Connor stated that the vendor that they use for trees is in Clear Lake and they have recommended specific trees for this site.

Demeules stated that he is concerned that we will be taking these trees out by the time they mature.

Adams asked if the interconnection agreement is signed with Xcel.

O'Connor confirmed.

Adams said that he had heard that they were getting close to capacity on County Rd 8.

Gray added that many poles have been added on County Rd 8 in the last few months and he expects that the capacity has increased.

Adams asked if poles and wire have been added.

Gray confirmed.

Aubol asked if we are going to contain trees by building fences and trees, making them inaccessible for watering?

Waytashek replied that when there is a solar farm that is being constructed next to another one, we will not require the trees. The concern is, if it actually gets constructed.

Aubol asked if these solar arrays would share a fence line?

Waytashek said that this has not been proposed in the past, and this could be proposed, but neither of these applicants is proposing this.

Aubol stated that he is concerned if there is fencing and trees in between, then as they grow, getting to them to do maintenance is an issue.

Waytashek replied that to the best of her knowledge there are not solar farms with trees in between. We have not run into this issue.

Adams asked if we are better off to hold off on this application if there are still engineered plans to be done and a new application that has been received?

Waytashek replied that we are under the 60-day rule, and we can extend this another 60 days if we want to, or O'Connor can sign the 60-day waiver, otherwise we need to move forward to meet the 60 day rule.

Adams asked if there is a benefit to it.

O'Connor stated that they typically don't put out the cost of the engineering until they know that a project can move forward, but all plans are supplied prior to pulling the building permit.

Adams stated that if there are significant changes, they will need to go through this process again.

Waytashek confirmed.

O'Connor said that she would not want any significant changes on this as she has worked very hard on it. She is only concerned about the stormwater basin shifting North or South.

Vandereyk added that this statement comes from a concern about a past solar farm in Clear Lake that was constructed not in accordance with the approved plans and this language has since been added.

Adams asked if Vandereyk is comfortable with this.

Vandereyk confirmed.

Gray asked for confirmation that this is a 40-acre parcel, with (4), approximately, 10-acre solar farms, of which 1 has been constructed. This is completely fenced and treed. This is the application for the 3rd and the 4th application has just been received.

Adams confirmed.

Adams opened the Public Hearing.

Mike Juricich, Sherburne County Public Works, stated that with the 4 solar farms that are going into this parcel they are concerned. The current solar farm is on the far east side. They are suggesting a new access, and this is located 12040 ft east of 90th Ave. This was also to be used as the access for the 2 solar farms in the center. This is not shown on the current plans. The USS Golly Gee was installed already, and they removed an access upon the request of Public Works and installed the new one that would be used for the 2 solar farms in the middle. The solar farm on the far West side will be accessing off of 90th Ave, Since the spacing requirement for this road is 660 ft.

Waytashek stated that new plans had been received after the packets had gone out and gave a copy to Juricich. She added that the new drawings show that they are using the same access for all 3 solar farms.

Juricich said, then he is good.

Kay Schroden, 20078, County Rd 14 Big Lake, asked if the trees that go around the solar farms are because the evergreens clean the air or for a visual barrier?

Waytashek replied that this is mainly for aesthetics for the visual barrier.

Demeules made a motion to close the Public Hearing. Aubol seconded. The motion carried and the Public Hearing was closed.

Waytashek requested that Condition #12 be amended to read, "Trees will not need to be planted on the east side, or the west side of the solar farm if there already exists a solar farm directly adjacent to the east or west."

Vandereyk made a motion to recommend approval of the Interim Use Permit for a 1 MW Solar Farm, with the (19) recommended Conditions, including the amendment to Conditions #12 and Findings of Fact. Larson 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. Plans must match approved IUP plans.
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 7 ft high non-electric chain link fence 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 plan date stamped May 2, 2023.
9. Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$100,000 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 (8 1/3%) 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 a 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 be responsible for vegetation control & weed management during the project's operating life.

12. Must install 6 foot tall White Spruce and Norway Pine trees along the north, south and west portions of the solar farm as shown on site plan (Attachment B) date stamped, June 12, 2023. Trees will not need to be planted on the east side, or the west side of the solar farm if there already exists a solar farm directly adjacent to the east or west. The trees must be planted staggered in two (2) rows, in each row the trees may be planted no more than 16 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 35 years until December 31, 2058. This IUP is valid for DIVOCSG 11 LLC and John & Lynette Golly.

14. Public Works will require that the recently constructed access on CSAH # 8 serving the recently developed project to the east will be utilized. Coordinate with Public Works on exact location.

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 including 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?

Yes, the proposed location of the solar farm is in an existing agricultural field. The closest adjoining neighboring house is approximately 640 feet to the east. There is an existing solar farm location that has been approved but not yet constructed to the east of the proposed solar farm site. 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?

Yes, the IUP will be valid for 30 years. If the property owner no longer wants solar panels the infrastructure can 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 regulations.

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

Yes, the Driveway access to CSAH #8 will be from existing driveway entrance that was approved for the solar farm to the east. 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?

Yes, 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?

Yes, construction of the site will cause noise and additional traffic, this will be temporary. 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, by consensus, and the Interim Use Permit for a 1 MW Solar Farm is recommended for approval to the County Board, with the (19) Conditions and Findings of Fact.

Closing:

Aubol made a motion to adjourn the meeting. Larson seconded. The motion carried and the meeting was adjourned at 7:34pm.

Submitted by Carrie Winter, Secretary.