

**CHISAGO COUNTY
PLANNING COMMISSION
OFFICIAL PROCEEDINGS
JUNE 2, 2016**

The Chisago County Planning Commission met in regular session for public hearing, at 7:00 p.m. on Thursday, June 2, 2016 in the County Board Meeting Room of the Government Center with the following Commission members present: Frank Storm, Jim Froberg, Dave Whitney, Jim McCarthy, Gene Olson, and Craig Mold.

Absent: John Sutcliffe (excused)

Ex Officio: Commissioner Rick Greene

Also Present: Tara Guy, Assistant Zoning Director
Planner Ken Roberts

The Chair called the meeting to order and led the assembly in the Pledge of Allegiance. Roll call of Board members was taken and a quorum established, with only one member absent.

APPROVAL OF AGENDA - On motion by McCarthy and second by Olson, the meeting agenda was approved as published.

APPROVAL OF MINUTES - On motion by Froberg and second by Mold, the minutes of the meeting of May 5, 2016 were approved as presented.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD - Upon motion by Whitney, and second by McCarthy, all applications, submittals, reports and other materials were adopted into the record by reference. Staff Reports had been distributed in advance to the Planning Commission and the applicants, for their review. Copies of all applications, correspondence and Staff Reports were made available on a table at the entrance to the hearing room.

ATTENDANCE DURING TOUR OF AGENDA ITEMS - Chairman Storm noted that the Planning Commission had toured the agenda items on site, on Tuesday, May 31st and all members had been present.

NEW PUBLIC HEARINGS :

Fuller Cowles - Fuller Cowles was present on behalf of the Cowles family to request approval of a replat of the Planned Unit Development of Cowles Family Farm Plat 2. This is located in Franconia Township, at 29615 Unity Avenue, Cowles Family Farm Plat 2, Lots 1 - 8 (PIDs #04.00537.09 through 537.16). The Franconia Township Board had recommended approval with no conditions. Mr. Cowles explained that they had been a reconfiguring the lot lines in the platted PUD in preparation for conveying the westerly balance of the family farm, which had never been actively developed, to the Minnesota Trust for Public Lands, with eventual conveyance to the Minnesota DNR. The lot line change will simply make a more sensible configuration for the remaining property which will remain in the family's ownership. The Commission had no comments or questions, nor were there any interested landowners present to offer testimony. After brief discussion, Gene Olson moved to recommend approval of the

reconfiguration of the platted PUD of the Cowles Family Farm Plat 2, Dave Whitney seconded it and the motion was carried unanimously.

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Innovative Power Systems - Evan Carlson of Innovative Power Systems was present along with property owner Ed Eichten, to request a conditional use permit to construct and operate a 4 megawatt community solar garden. This is located at the Edwin Eichten property in Shafer Township, Sec.31, T.34, R.19, at 16809 310th St. (PIDs #08.00303.00 and 08.00312.00.) The Shafer Township Board had recommended approval of the revised proposal presented by IPS at their meeting, which was the presented version under consideration by the Planning Commission at this meeting. The Commission had viewed the property on-site during their tour and were unanimous in their opinion that the property was highly suitable for the proposed use, being almost entirely screened from residential or public view. Mr. Carlson explained that the project has been in Xcel's solar development queue for some time, but had experienced a little delay when a conflict over the service area boundary between Xcel and ECE was discovered. The disputed line was recently mutually agreed upon. As a result, the solar array footprint had moved a little further north on the farm property, but was still surrounded by the farm, and woods, and the Shafer municipal wastewater treatment ponds to the east. The Chair opened the matter for public testimony, and nearby landowner Fuller Cowles spoke in support of encouraging the development of solar energy locally. There were no further questions or comments from the Planning Commission nor the audience, Jim Froberg moved to adopt the Staff Analysis as findings of fact in support of approval, and recommend approval of the CUP with conditions. Craig Mold seconded it.

The following are the adopted findings of fact in support of approval:

1. Is the proposal consistent with the Comprehensive Plan and development policies of the County? Yes. In November of 2014, Chisago County purposefully amended its Comprehensive Development Plan, and Zoning Ordinance to allow and encourage the land use in question. The Chisago County Comprehensive Development Plan specifically supports and encourages the development of renewable energy sources in Chisago County. Section 8 - Infrastructure, Energy Subsection, Page 8-14 in the Comp Plan states in pertinent part: **“Chisago County believes that it is in the public interest to encourage the use and development of renewable energy systems (including solar energy systems) that have a positive impact the development in energy conservation with limited adverse impact on nearby properties. As such, the County supports the use of solar collection systems and the development of solar energy farms. ”**

Further, Section 7 “Economic Development” of the Chisago County Comprehensive Development Plan states in pertinent part on page 7-5: **“With the commercial/industrial tax base of Chisago County being only 5.33%, there is concern thatsteps must be taken to maintain a healthy balance to ensure an acceptable residential tax rate. Chisago County needs to analyze and develop and optimum goal for maintaining a healthy tax balance in tax base.....In any case it is evident an increase in the commercial/industrial development is necessary in Chisago County. ”**

Staff would like to point out that the development of commercial tax base in the County generally occurs within the municipalities, due to the need of most commercial operations for municipal services, such as water, sewer, police, fire, emergency services and the like. Community solar gardens represent a rare category of commercial land use that will provide significant tax benefits to the County, (through both real estate taxes and production taxes) without any demand for additional services, extension of infrastructure or municipal services, or the need for mitigation of negative impacts to the environment. This falls within a tiny category of very rare beneficial land uses that Staff would characterize as a win/win.

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2. Will the use create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area? No. This land use will be passive and inert, requiring no use of public facilities, or amenities, and no demand at all upon existing parks, school and/or streets, once construction is complete.

3. Will the use be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development; and 4. Will the structure and site have an appearance that will have an adverse effect upon adjacent properties? The property is sufficiently separated by distance and screening from adjacent development so as to not cause undue negative impact, or deter future development. The applicant has submitted a vegetative screening plan to augment the existing wooded buffer on the west side of the property. The Swedish Immigrant Trail is heavily wooded on the north side, which provides screening from the arrays.

5. Is the use in the opinion of the County reasonably related to the overall land use goals of the County and to the existing land use, and consistent with the purposes of the Zoning Ordinance/Zoning District in which the applicant intends to locate the proposed use? The proposed land use is directly related to, in harmony with, and in furtherance of the overall land use goals of Chisago County, the County's Zoning Ordinance, and the Zoning district in which it is proposed to be situated. (Please refer to the above discussion in Item #1, in this section.)

6. Will the use cause traffic hazard or congestion? Though there will be a temporary increase in traffic levels on the County Road leading to Rainbow, and upon Rainbow Avenue during construction, no hazard is anticipated. The Chisago County Engineer has reviewed this proposal, and determined no public safety hazard or threat would result from approval of the proposed land use.

7. Will existing nearby properties be adversely affected by intrusion of noise, glare or general unsightliness? No. The proposers have designed a plan for an effective visual buffer to screen the properties most likely to be affected by the installation. In addition to the plantings proposed to screen the fenced area, there are few residences situated in close proximity to the arrays, and the large farm property already provides a significant distance-buffer. There could be a little sound (if a tracking panels are used) from the permanent installation once construction is final. Solar panels are designed to capture sunlight, not reflect it, so glare will not be a consideration, particularly since the panels face south, away from the residences. The property will be

professionally maintained, secured and inspected once it is constructed, and will not present an unsightly appearance.

The following are the conditions of approval recommended for adoption:

1. This CUP is for the installation of a community solar garden on the subject property, in accordance with any and all applicable State rules and regulations, as they presently exist or as may be amended by the State of Minnesota.
2. The CUP shall allow the installation of a maximum of four one-megawatt, co-located solar gardens within the footprint legally described in the application.

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3. Construction and routine maintenance activities shall be limited to daytime working hours, as defined in Minn. R. 7030.020, to ensure nighttime noise level standards will not be exceeded.
4. All landscaping and screening shall be installed as proposed by the permittee in their application.
5. The Permittee shall implement MPCA-recommended erosion and sediment control devices and implement best management practices in the maintenance of same. The permittee shall obtain an NPDES Permit, and provide the Department with the Storm Water Pollution Prevention Plan (SWPPP) submitted to the MPCA as part of the (NPDES) permit application. Those erosion and sedimentation control measures shall be installed or implemented prior to construction and maintained in accordance with the SWPPP.
6. Areas of bare ground at the facility shall be re-vegetated with an approved low-growing, pollinator-friendly seed mix. Care shall be used to preserve the natural landscape, minimize tree removal and prevent any unnecessary destruction of the natural surroundings in the vicinity of the Project during construction and maintenance. The Permittee shall minimize the number of trees to be removed and leave undisturbed, to the extent possible, existing low growing species.
7. Any activity conducted within wetlands shall be carried out, regulated and/or prohibited in accordance with the provisions of MN Chapter 8420.
8. The solar facility shall be designed to meet or exceed all relevant local and State Rules, Statutes, including State of Minnesota and National Electric Safety Codes. Permittee shall adhere to laws and rules as presently specified by the State of Minnesota or as may be amended and applicable in the future.
9. The Permittee shall follow MN DNR's recommendations for avoiding and minimizing impacts to Blanding's turtle.
10. The security fence surrounding the facility shall be constructed in a manner consistent with the fencing preferred by Chisago County, known as "deer fencing" or "agricultural fencing" and visual screening of the fence shall be planted as proposed in the application materials.

11. Permittee shall be responsible for on-site cleanup of all waste and scrap that is the product of construction, as well as dirt, mud and other debris infiltrating the public roadway as a result of on-site activity. Permittee shall be responsible for all maintenance of property during the life of the project, including disposal of trash, waste, and other detritus, and shall maintain the project premises in an attractive and aesthetically pleasing manner.

12. Prior to application for a building permit, the Permittee shall provide a complete wetland delineation and report and pay the required wetland fee for on-site evaluation.

13. At the time of building permit application, the Permittee shall provide financial surety in the amount of \$25,000 per MW in favor of Chisago County, to guarantee compliance with the decommissioning plan, and site restoration upon project termination. Upon expiration/revocation of this permit or voluntary termination of the project, the permittee shall dismantle and remove from the site all solar panels, mounted steel posts and beams, inverters, transformers, overhead and underground cables and lines, foundations, and buildings. To the extent feasible, the Permittee shall restore the site's pre-project topography and topsoil

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quality in accordance with decommissioning and restoration plan on file, within 12 months of the project termination.

14. The permit holder must notify the County annually that the activity permitted by the CUP is ongoing, and the activities being conducted continue to adhere to the conditions of approval.

Theravada Dhamma Society of MN - The Theravada Dhamma Society of MN was present at the meeting, represented by attorney Diana Longrie, to request an amendment to their existing conditional use permit, to be phased over five years. The amendment will allow sequential construction of a single family home, a gathering space, a shrine and several meditation shelters. This is located in Chisago Lake Township, Sec.19, T.34, R.20, at 32500 Lofton Avenue (PID #02.00626.00). The Chisago Lake Township Board had recommended approval with no conditions. Ms. Longrie gave an overview of the proposal to amend the terms of their existing CUP originally issued in 2013. The Society plans a three phase physical improvement plan to be implemented over approximately five years depending upon funding. Phase I will include the conversion of the existing house and garage into a library and study center for the group. They will construct a new single family dwelling to serve as the resident monk's home. A new septic system will also be installed at this time, which is planned to accommodate the new house and the future gathering hall. In Phase II, they hope to build the gathering hall which will serve their congregation of approximately 150 people. Phase III will include building a stupa (shrine) and up to six small meditation cottages for individual use. They will continue tree-plantings throughout the property, as has already been accomplished along the Lofton Avenue side of the property. A second driveway is planned, which will access off of Ivywood Trail to the north, a Township Road, to avoid any hazard or congestion by using the second existing field access on Lofton Avenue. There are no proposed changes to any of the original conditions placed upon the CUP, nor are there any proposed changes to the intensity of use of the property. There will be the same number of congregants, the same four annual larger-scale gatherings of up to 150 people, and no additional activities or impacts to the neighboring

properties from the land use. The only expansion will be the new physical amenities to serve the same number of society members. The group acknowledges that any increase in the number of congregants, events, or impactful activities will be evaluated, and may trigger another amendment. When Ms. Longrie had concluded her summary of the request, the Chair sought questions and comments from the Commission. There were a few general questions from the Commission concerning the buildings and the new driveway which were answered by Ms. Longrie. The maximum height of the spire of the stupa will be 50 feet as specified by the Ordinance. The Commission noted that church steeples are customarily similar in height, and many agricultural structures such as silos and manure storage systems exceed that height. When there were no further questions from the Commission, the Chair opened the hearing for public testimony. There were a number of nearby landowners present to learn more about the proposal and to offer comment. Most of those offering testimony spoke in opposition to the proposal. Those persons identifying themselves who spoke in opposition to the request included Todd Kramer, Doug Wood, Jim and Judy Weiler, Deb Foster, Roger Brink, Ron Olson, Peter Linder, Joe and Tommy Manthey, and Mary Shuroff. The opponents appeared to be unanimous in their belief that the proposed use would be incompatible with the surrounding residential area, and would change the nature of the neighborhood. Several of the neighbors seemed to believe the applicants had misled the neighbors and the County to believe that there would never be any further physical improvements to the property, and that the bulk of the property would remain rented to neighboring farmers for crop. Issues that were raised by the opponents included those of noise, lights, activity levels at the property, traffic, "commercial" development in the immediate area, visual impact from the temple. Several of the speakers opined that approval of the CUP amendment was a "foregone

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conclusion" since some earthwork had already been undertaken. They felt that the neighbors' opinions would not be considered in the decision making. Most of the neighbors acknowledged that there had been no neighborhood problems as a result of the original CUP, and the Society had been "good neighbors" but they feared uncontrolled development of a "compound" and unlimited buildings being constructed upon the property. One neighbor felt that the matter should be subject to a community vote. Speaking in favor of CUP amendment approval was neighbor Winton Walters, who stated that the Society had been excellent neighbors since they moved to the area. Bhikkhu Cintata, a visiting Buddhist monk from Austin, Texas testified as to the excellent relationship his own establishment shared with their neighborhood, and noted that as neighbors, monks were naturally quiet and unobtrusive. When there was no further comment forthcoming, the Chair closed the public testimony portion of the hearing. The Commission had a few additional questions for the applicants concerning the on-site activities. When asked, Tara Guy confirmed that there had been no complaints received by the Zoning Office concerning the activities of the congregation. Tara asked about the use of the PA system mentioned by the neighbors, suggesting that a condition controlling outdoor noise might be appropriate to add. Ms. Longrie explained that during the four annual gatherings, a PA was used to make announcements, and to amplify music during the daytime hours. The group would be amenable to the establishment of a quiet time, and the Commission concurred that 10:00 p.m. would be the customary time to end sound producing activity at a community gathering. Dave Whitney suggested adding that as Condition #8 on the recommended CUP conditions. As further discussion ensued, neighboring landowner Joe Manthey disrupted the deliberation of the Planning Commission, causing the Chair to recess the meeting and call for a deputy sheriff to maintain order. When the meeting was reconvened, deliberation resumed, and after brief discussion, Jim McCarthy moved to adopt the Staff analysis contained in the Staff

Report as findings of fact in support of approval, and to recommend approval of the CUP amendment with conditions. Dave Whitney seconded it, and the motion was carried unanimously.

The following are the findings of fact adopted in support of approval:

1. Is the proposal consistent with the Comprehensive Plan and development policies of the County? _The Chisago County Comprehensive Development Plan intends to allow for a wide variety of land uses in the Agricultural zone. Such uses include small scale business, tourism, retail, or similar uses which do not require highly developed infrastructure. The use of a property in the Agricultural zone as a gathering place for semi-monthly meetings of a maximum of 50 attendees, for a quiet meditation site, with occasional larger gatherings is completely compatible with that goal.

2. Will the use create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area? No. The use will remain contained on the subject property, and will not bring additional residential development or demand for services with it.

3. Will the use be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development does not suffer undue negative impact and there will be no significant deterrence to future development; and 4. Will the structure and site have an appearance that will have an adverse effect upon adjacent properties? The subject property is 23 acres in size, and as such could be considered to have its own buffer of open space around it. The property is fairly heavily forested on the south side, right up to the south side of the existing house and garage, which effectively provides a visual buffer for most of the residential properties in the immediate vicinity. To the north and west are open fields, a barn and corral, and across the main highway is Sunrise Lake. There will be some additional visual impact to the immediate area upon construction of the new buildings, particularly the

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stupa and the anticipated future archway/entrance gate leading to the stupa planned for Phase II. To that end, the planting of evergreen trees along the main access road has already been undertaken by the applicants. As regards the potential deterrence to future development, the properties in the immediate vicinity have already been developed to the fullest density possible (five and ten acre tracts) and no further development is anticipated in the surrounding area.

5. Is the use in the opinion of the County reasonably related to the overall land use goals of the County and to the existing land use, and consistent with the purposes of the Zoning Ordinance/ Zoning District in which the applicant intends to locate the proposed use? Yes. Section 5.06 C (2) of the Chisago County Zoning Ordinance specifically provides for “churches, chapels, temples, synagogues, mosques” and associated or similar uses. It is clear that the proposed use is consistent with the intent of not only the Zoning Ordinance, but the Agricultural zone as well. It is often necessary to make note of the fact that there are a number of allowed uses in the County’s Agricultural Zone; single family residences and crop farming are not the

sole land uses provided for in this Zoning District.

6. Will the use cause traffic hazard or congestion? It is the determination of the County Engineer that the proposal will not cause traffic hazard or congestion.

7. Will existing nearby properties be adversely affected by intrusion of noise, glare or general unsightliness? No. Please refer to the discussion in Items #IX. (IX. Possible Impacts to Neighboring Properties - The possible impacts to nearby properties were evaluated in the original Staff Report and were found to be negligible. At that time no additional structures or site improvement were proposed. There is no intensification of use or increase in activity level proposed with this amendment. This CUP amendment will allow several additional structures on the property, which will result in some visual impact to the immediate neighborhood and the traveling public. The most significant visual impact is likely to result from the future gate/archway and the stupa, which is proposed to feature a golden spire. Since the applicant proposes no expansion of activities or level of intensity, number of congregants, larger gatherings or any other impactful changes to the originally approved CUP, there will be limited impact to neighboring properties.

The following are the recommended conditions of approval:

1. This is an amendment to the Conditional Use Permit issued to the Theravada Dhamma Society of Minnesota in July of 2013 for a gathering place for worship.
2. This CUP amendment will allow:

PHASE I:

- The conversion of the existing residence into a library
- The construction of a new single family residence to house the monks

PHASE II:

- The construction of a new gathering hall to serve the congregation
- The construction of a stupa
- The construction of a gated archway between the road and the stupa

PHASE III

- The construction of six non-residential meditation cottages

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3. This CUP amendment shall not be construed to permit a significant expansion of the number of attendees, the frequency of gatherings, the size of the gatherings, or amount of traffic to and from the site.

4. Any expansion of use, including the number of attendees, the number of large gatherings, or other alteration in existing conditions shall be subject to Administrative review by the Department of Environmental Services and Chisago County Public Works, and may require an amendment to the Conditional Use Permit.

5. The permittee shall notify the Department prior to commencement of the next Phase of construction, and the Department will provide a status update to the Planning Commission.
6. All other use of the property shall conform with the relevant provisions of the Chisago County Zoning Ordinance.
7. The permit holder must notify the County annually that the activity permitted by the CUP is ongoing, and the activities being conducted continue to adhere to the conditions of approval.
8. All outdoor noise-producing activity and use of the PA system shall terminate at 10:00 p.m.

MISCELLANEOUS:

Planner Update on Comp Plan Work Plan - Planner Ken Roberts presented a work plan for proceeding with the proposed update to the Chisago County Comprehensive Development Plan. The Commission briefly reviewed the work plan proposed by Ken, and agreed that some additional work sessions will be necessary in order to complete the update, apart from the regularly scheduled monthly public hearings. General discussion followed on the work plan, and the consensus was that additional time would be required to review and digest the first draft of material Ken had presented. No new planning applications had been received or scheduled for public hearing at the next regularly scheduled Commission meeting on July 7th, so it was agreed that the evening would be used as a work session. Ken agreed to get the first draft of Chapter One to the Commission one week in advance of the work session.

Chickens/Urban Fowl Amendment - Staff advised the Planning Commission that they increasingly receive inquiries from landowners who live in the RRI and RRII Zoning Districts, concerning the possibility of raising chickens. Staff acknowledged that many of the larger metropolitan cities had moved ahead with adoption of ordinances permitting the raising of chickens on a regulated basis, in response to the “locavore” movement, which seeks to provide fresh and wholesome food which is locally sourced, especially in urban areas. If the Planning Commission felt it was appropriate, Staff would proceed with drafting a possible Zoning Ordinance Amendment to allow chickens in the RRI and RRII Zoning Districts. The Commission generally concurred that they favored such an amendment, and asked Staff to proceed with drafting appropriate language for consideration.

ADJOURNMENT : There being no further business, the meeting was adjourned at 9:55 p.m.