

The meeting was held remotely via Zoom due to the Covid-19 pandemic.

1. **CALL TO ORDER** – Chair Kopitzke called the meeting to order at 7:04 PM
2. **ROLL CALL** – Present: Chair Kris Kopitzke, Kuchen Hale, Doug Parker, Sally Doherty, Justin Sykora, Roger Bowman, Scott Patten, James Langan. Absent was Christian Dawson. A quorum was present.
ALSO IN ATTENDANCE – Council member Stan Ross, City Administrator Ron Moore, City Clerk Julie Yoho
3. **APPROVAL OF AGENDA** –
Move item 6d to first item
Motion/Second Parker/Bowman To approve the agenda for the May 3, 2021 Planning Commission meeting. Roll call: all aye, Passed 8-0.
4. **APPROVAL OF MINUTES** –
A. April 5, 2021
Motion/Second Parker/Hale to approve the minutes of the April 5, 2021 Planning Commission meeting. Roll call: all aye, passed 8-0.
5. **REPORTS AND PRESENTATIONS** - None
6. **PUBLIC HEARINGS** –
D. *(Taken out of order)* Jane and Carol Fritsche and Sotera Tschetter Minor Subdivision Application at the Property with PID# 08.028.20.43.0001, and the Property at 13681 15th Street
Chair Kopitzke opened the public hearing at 7:07 PM
Administrator Moore provided summary: The application is for a minor subdivision to create two 20+ - acre lots from the existing 40-acre parcel with PID# 08.028.20.43.0001 using a shared driveway through the property at 13681 15th Street owned by Jane and Carol Fritsche that will serve the two new lots.
Sotera Tschetter, Applicant, stated she is planning to continue farming the parcel.
No other comments were received
Motion/Second Sykora/Patten move to close public hearing. Roll call: all aye, passed 8-0.
Hearing closed at 7:14 PM
Bowman noted that the application is in line with the intent of shared driveways.
Motion/Second Hale/Doherty to recommend approval of the Jane and Carol Fritsche and Sotera Tschetter Minor Subdivision Application to city council with findings and conditions listed.
Findings
 1. The subject parcels are located in the Agricultural zone, as are the surrounding properties.
 2. The Agricultural zone allows residential use with a five-acre minimum lot size at a density of 3 lots per qtr-qtr section.
 3. The parcel through which the shared driveway will access 15th Street has approximately 660 feet of frontage on 15th Street.
 4. The subject parcel to be subdivided is 40 acres in size
 5. The proposed new lots are each over 20-acres in size.
 6. Preliminary septic system soil testing has been done, which indicates it appears there are suitable soils for septic systems on both proposed lots.Conditions
 1. The houses and septic sites shall meet all setback requirements
 2. The construction of the houses and driveways shall meet all Valley Branch Watershed District requirements and all City requirements
 3. All grading, drainage and erosion control plans shall be subject to the review and approval of the City Engineer and the Valley Branch Watershed District
 4. The City Engineer’s specifications and recommendations for all work shall be met for the duration of the permit.

5. The grading shall be constructed according to plans approved by the City Engineer. Silt fences or other types of erosion control shall be properly installed prior to construction; and shall be maintained in good condition until the construction is complete. All disturbed soils shall be restored as soon as possible.
6. Easements as required by the City Engineer shall be granted
7. All drainage and utility easements shall be subject to the review and approval of the City Engineer.
8. All grading, drainage and erosion control issues shall be subject to review and approval by the City Engineer, and by the Valley Branch Watershed District if they meet permit thresholds.
9. Park dedication requirements shall be satisfied prior to recording of the subdivision, in accordance with Section 12-1270 of the Subdivision Ordinance
10. Easements for drainage and utilities shall be illustrated on the subdivision survey as may be recommended by the City Engineer.
11. A shared driveway agreement that meets the requirements of the shared driveway ordinance shall be in place prior to recording of the subdivision
12. A conservation Easement that prohibits future subdivision of the property shall be approved and recorded concurrently with the recording of the subdivision.
13. A letter from the Washington County Department of Public Health shall be provided to the City which states that soils within the proposed subdivision are suitable for individual sewage treatment systems.
14. Permits for individual sewage treatment systems shall be issued by the Washington County Department of Public Health prior to building permit approval.
15. The minimum shared driveway width is 12 feet, but may be required to be wider based on the number of lots to be served and the recommendations from the Fire Department.
16. The location of a shared driveway as it meets a public road, including the distance to existing driveways and adequate site distance, shall be subject to review and approval by the City Engineer, to ensure traffic safety requirements are met.
17. The lots on the shared driveway shall be given 15th Street addresses that meet Washington County's addressing conventions and signage with the addresses of the lots shall be provided at the point where the shared driveway meets the public street right-of-way.
18. A multi-party shared driveway agreement must be recorded that sets out which lots are served by the driveway, how the shared driveway is to be maintained, repaired and improved, who is responsible for planning, coordinating and implementing the maintenance, repairs and improvements, as well as for planning the projected costs of these items, and how the costs of maintenance, repairs and improvements are to be allocated among the owners of the lots served by the driveway. The shared driveway agreement shall provide for a dispute resolution process that does not include the City. A shared driveway agreement shall be executed for each driveway, subject to review and approval by the City, and shall be recorded against the property of each party with access to the driveway.

Roll call vote: all aye, passed 8-0.

- A. Impact Power Solutions Conditional Use Permit and Variance Application for a Solar Garden on the Eastern Portion of lot 6 of the new Afton Business Park subdivision at the property with PID# 06.028.20.24.0004, located in the southeast quadrant of Manning Avenue and Hudson Road.
Chair Kopitzke opened the public hearing at 7:16 PM
Administrator Moorse and City Planner Bob Kirmis provided background information. Lot 6 is proposed to be split into three areas, each containing a solar farm. Each require separate CUPs. Impact Power Solutions has requested approval of a conditional use permit to allow the construction of a community solar garden upon the eastern one-third of Lot 6, Block 1 of the recently approved Afton Business Park subdivision. Lot 6, Block 1 measures 18.8 acres in size, approximately one-half of which lies within the Floodplain Overlay District. The subject site is zoned I-IC, Light Industrial. According to the Zoning Ordinance, "solar farms"

111 are allowed in the City’s industrial zoning districts subject to conditional use permit processing. In addition to
112 the conditional use permit request, the applicant has also requested approval of a variance to allow the
113 clearing of trees (clear cutting) on slopes greater 13 percent upon the subject site. The Ordinance defines
114 “clear cutting” as the removal of live vegetation in excess of six inches in diameter (at breast height) on any
115 area measuring 20,000 or more in size. The applicant is proposing to clear cut an area approximately 27,000
116 square feet in size.

117 Evan Carlson, Applicant, stated the project fits with Afton’s land use codes and is a good site for solar being
118 near power line and substation. A pollinator mix will be planted under the panels which assist in runoff and
119 provide natural buffer to the wetland. The variance is for tree clearing, natives will be planted which will
120 prevent erosion.

121 Brad Vier, property owner to the south. Has concerns about runoff because the land slopes to his property.
122 Asked about cutting the wooded area. Also concerned about if it is converted to a different use in the future,
123 the wooded area would be gone. Would this area be graded level? (yes some, but not flat). If pond is located
124 at the southeast corner, the field to the right drains there also. Water flows through the area. Asked about
125 retaining pond locations – will it be in buffer area or on the property? Would like trees to block view.

126 Evan Carlson replied they will not clear to property line, will leave for screening. This area is flood plain. .
127 No other comments were received.

128 **Motion/Second Bowman/Sykora to close public hearing. Roll call: all aye passed 8-0.**

129 Public hearing closed at 7:53pm

130
131 Bowman asked if the vegetation plantings require irrigation (no). Do the three separate developers need
132 entire fence enclosures for security? (yes)

133 Chair Kopitzke asked who is the owner? (FOC LLC). Would like to see a grading plan. Where is southern
134 line for fence - would like to see site plan that includes that information (may be hard to see on copy
135 provided). Would like to see the location of control pad, landscaping plan, legal description. Is it common to
136 have 3 CUPs on one piece of land? (it does happen. Here this is the only property where it can be built.

137 Evan Carlson stated that the seed mix they use is approved as pollinator friendly. The equipment pad and
138 access road are shown on the site plan but they are very small.

139 Sykora would like to know the seed mix. Also noted that there are better screening options than spruce such
140 as cedar.

141 Parker stated that waterflow here is a big deal, this is a flood plain. Need coordination to be sure to handle the
142 water correctly. What is the hardship to allow for a variance? Does not support minimizing the buffer to the
143 residential area.

144 Jeff Pearson, City Engineer stated that the slopes over 13% are highlighted. What is size of clear cutting? (less
145 than shown).

146 Hale stated that there is one property owner and three separate applications that are disconnected. The land
147 owner should look at how they fit together and create storm water plan for the property.

148 Kopitzke agreed.

149 Evan Carlson stated that it has to be made clear that the city is having us work together.

150 Brad Vier stated that back when the area was rezoned, the Army Corps of Engineers had interest in this site.
151 May want to check with them.

152 Patten stated that this is a good use of the site. Does the energy produced go back to Afton?

153 Evan Carlson stated that Xcel has an energy hosting map that can be viewed online to see distribution and
154 transmission networks. Community solar gardens sell bill credits to customers who cannot build solar on their
155 property. They can be purchased by a subscriber in the county or adjacent county. Tend to be school districts,
156 churches, cities.

157 Kopitzke stated it is tough to prove hardship for the variance.

158 Evan Carlson asked if the variance is actually required? The area of trees on slope is very small. In his
159 opinion, the ordinance is for large areas such as river bluffs, doesn’t really apply here.

160 Koptizke would like to see where the trees are and how they are on slope. Would prefer no variance.

161 Hale feels like application is not complete, not enough clarity. Good project but we don’t have complete
162 information.

- 163 Langan stated these solar farms can be sold off in the future. Concern about what happens when site is
164 decommissioned or traded to another owner? Does CUP? (CUP goes with the land) Decommissioning funds
165 go to new owner? (conditions of approval go with the land also). Panels contain lead and other materials that
166 require special handling. Also any issue with reflectivity and proximity to the Lake Elmo airport? (FAA
167 allows panels on airport, 3 miles from Lake Elmo).
- 168 Evan Carlson stated the panels do not contain hazardous materials, can be recycled.
169 Sykora asked why is the CUP with the business instead of landowner.
170 Doherty agreed we should be working with landowner who would bring together a final plan.
171 Parker agreed he would like to see bigger picture.
172 Hale asked if there is any precedent in working with lease holders rather than landowners ? What are the
173 expectations?
174 Administrator Moorse stated the owner is selling to another who will hold the leases after the CUP process is
175 complete. Engineering can be done separately for storm water and reviewed by our engineer, or we work with
176 existing property owner to coordinate the plans to work together.
177 Evan Carlson stated that as the developer he has the expertise, typically the land owner is hands off.
178 Parker asked since the water run off is an issue here, how do we assess?
179 Administrator Moorse stated we need a grading plan and analysis.
180 Hale asked if one applicant can create the grading plan and other two split the costs?
181 Evan Carlson replied no, they cannot split costs.
- 182 **Motion/Second Bowman/Doherty to table these three solar farm applications until next month when**
183 **more information can be gathered.**
184 Not enough information to approve these at this point.
185 Administrator Moorse recommended taking action on each application separately.
186 **Kopitzke friendly amendment to table just this application from Impact Solar Solutions. (accepted)**
187 **Roll call vote: all aye passed 8-0.**
188
- 189 B. Sunvest Solar LLC Conditional Use Permit Application for a Solar Garden on the Central Portion of lot 6
190 of the new Afton Business Park subdivision at the property with PID# 06.028.20.24.0004, located in the
191 southeast quadrant of Manning Avenue and Hudson Road.
192 Chair Kopitzke opened the public hearing at 9:06 PM
193 Tim Polz, applicant, was present
194 Brad Vier, neighbor to south, had same concerns about the buffer zone, fence location, and drainage.
195 No other comments were received.
196 Motion/Second Parker/Hale to close public hearing.
197 *Withdrawn*
198 **Motion/Second Parker/Hale to table and continue public hearing next month. Roll call: all aye passed**
199 **8-0.**
200 Chair Kopitzke noted items missing from application: driveway location, delineate setbacks, landscaping
201 plan, decommissioning plan, drainage plan, grading plan.
202 Sykora stated he would like to see specifics on vegetation for screening and landscaping.
203 Parker would like more information on water management and the buffer to neighbor.
204 **Motion/Second Sykora/Bowman table further discussion until next month. Roll call: all aye passed 8-0.**
205
- 206 C. DIVOCSG 16 LLC Conditional Use Permit Application for a Solar Garden on the Western Portion of Lot
207 6 of the New Afton Business Park Subdivision at the Property with PID# 06.028.20.24.0004, located in
208 the southeast quadrant of Manning Avenue and Hudson Road.
209 Chair Kopitzke opened the public hearing at 9:27 PM
210 Mike Bufalini, applicant, was present.
211 Brad Vier, neighbor to south, had the same concerns about buffer and drainage as he had on the others.
212 *Parker had to leave the meeting (9:29pm).*
213 Administrator Moorse stated the current owner has a purchase agreement contingent on the CUP.

- 214 Chair Koptizke noted items missing: who is building the access road, fence plan and location,
215 decommissioning plan, grading plan.
216 Mike Bufalini stated he typically submits all detail plans through engineer after preliminary plan is approved.
217 **Motion/Second Sykora / Koptizke to table and continue public hearing next month. Roll call all aye**
218 **passed 7-0.**
219
220
- 221 D. Ordinance Amendment Regarding Buffer Yards in the Industrial Zones
222 Chair Koptizke opened the public hearing at 9:47 PM.
223 Brad Vier would like to see 100' buffer between residential and industrial. Property slopes up, so concerned
224 about height and view from his home up to site.
225 Evan Carlson would like to have opaqueness describe at maturity.
226 Brad Vier asked how long to maturity?
227 No other comments were received
228 **Motion/Second Bowman/Hale to close public hearing. Roll call: all aye passed 7-0.**
229 Public hearing closed at 9:55PM
230 *Langan left the meeting (10:00 pm)*
231 Discussion was held on the draft language. Items identified include:
232 - The definition of “adequate screening” needs to be clarified. Bowman suggested that “adequate screening”
233 be defined as 90% opacity year-round achieved in 5 years.
234 - Vegetation can vary along the boundary.
235 - The 100 foot depth of the buffer area could be reduced if there is adequate screening.
236 - Long term maintenance should be required.
237 - Deciduous canopy trees are encouraged.
238 - Sykora recommended that the use of shrubs should be encouraged.
239 - Irrigated grass should not be allowed. Native grasses should be encouraged.
240
241 **Motion/Second Bowman/Sykora to recommend changes on section “A” a3 add “deciduous canopy trees**
242 **and native prairie grasses and shrubs are encouraged. a5 buffer yard may not include irrigated lawn.”**
243 **Roll call: all aye, passed 6-0.**
244
245 *Parker returned to the meeting (10:25 pm)*
246 **Motion/Second Bowman/Koptizke to recommend the following changes: section b1 “buffer yard shall**
247 **be minimum of 100’ wide from the property line. It can be reduced to as little as 50’ from the property**
248 **line if necessary, if adequate screening is provided and maintained. Adequate screening generally is**
249 **considered to be 90% opacity within 5 years at the yard setback.”**
250 **#6 “no irrigated lawn”**
251 **#7 “whether or not shade trees are planted around the building and or the driveway and parking area”**
252 **Roll call: All aye, passed 5-1-1 (Hale nay, Parker abstain)**
253
254 **Motion/Second Koptizke / Sykora to recommend the following changes: add item C “Buffer yard**
255 **maintenance shall be the responsibility of the CUP holder”. Roll call : 6-0-1 (Parker abstain)**
256 *Doherty left the meeting (10:35 pm)*
- 257
258 **7. NEW BUSINESS** – none
259
260 **8. OLD BUSINESS** –
261 A. Update on City Council actions
262 Council member Ross provided a summary of the April 2021 City Council meeting.
263
264 **9. ADJOURN**

265 **Motion/Second Hale/Sykora To adjourn. Roll call: all aye, Passed 6-0.**
266 Meeting adjourned at 10:40 PM.

267
268
269 Respectfully submitted by:

270
271 _____

272 Julie Yoho, City Clerk

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274
275 To be approved on June 7, 2021 as (check one): Presented: _____ or Amended: _____

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277