
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, Roger Bowman, Christian Dawson. Absent was Scott Patten, Justin Sykora, James Langan. A quorum was present.
ALSO IN ATTENDANCE – Council member Lucia Wroblewski, City Administrator Ron Moore, City Clerk Julie Yoho
3. **APPROVAL OF AGENDA** –
Motion/Second Hale/Parker To approve the agenda for the June 7, 2021 Planning Commission meeting. Roll call: all aye, Passed 6-0.
4. **APPROVAL OF MINUTES** –
A. Motion/Second Parker/Bowman to approve the minutes of the May 3, 2021 Planning Commission meeting. Roll call: all aye, passed 5-0-1 (Dawson abstain).
5. **REPORTS AND PRESENTATIONS** - None
6. **PUBLIC HEARINGS** –
A. Duane Meyer Variance Application for lot line rearrangement at 13852 50th St.
Chair Kopitzke opened the public comment period at 7:04 pm
Administrator Moore provided a summary of the application: Duane Meyer has proposed a lot line rearrangement at 13852 50th Street and the adjacent parcels with PID#s 28.028.20.32.0001 and 29.028.20.41.0003. The lot line rearrangement proposal requires a variance to increase the nonconformity of an existing landlocked parcel, and to create an irregularly shaped parcel. Rather than applying for both a subdivision for the lot line rearrangement and a variance at this time, Mr. Meyer has applied for the variance based on the lot line rearrangement concept, to avoid the costs of a survey of the property in case the variance is not approved.
Duane (Zeke) Meyer, applicant, stated that this is an attempt to settle estate for the property that was inherited.
No other comments were received.
Motion/Second Bowman/Hale to close public hearing. Roll call: all aye Passed 6-0.
Public hearing closed at 7:11 pm
Chair Kopitzke asked if applicant owns land to the east. (yes)
Parker asked if the parcels could be swapped with his brother Ron, so that the parcel would no longer be landlocked.
Hale stated that the parcel is personally owned, not part of the estate. City cannot suggest swapping.
Parker asked about the language for the easement, approve for driveway only, not a public road.
Hale stated that she sees it as a 60’ wide permanent easement that would go with the land.
Administrator Moore stated it would be a permanent access easement.
Parker stated that including language for a road seems out of scope right now.
Chair Kopitzke stated that the shape of the lot doesn’t bother him too much. Property has appropriate frontage. He doesn’t like making a land locked parcel bigger, but doesn’t see any other solution. Kopitzke also suggested that since the property does have sufficient frontage, they could partition the western side of the lot in 300’ (going North to South) or wider portions and this would eliminate the landlocked issue for the northern lot. The shape may be irregular but no more irregular than the other lot, there would be no landlocked lot and no variance needed.
Bowman asked if there is any reason we would not want to do this. There could be benefit of combining lots.
Kopitzke asked why they need a variance for lot line rearrangement. Also, he doesn’t see the hardship.
Hale asked what city oversight is required if they just divide it.

56 Administrator Moorse stated they cannot do a simple subdivision because it would create another lot that
57 doesn't meet requirements. They could combine the 40 acre parcel with other parcel owned by trust, but can't
58 create an additional lot.

59 Kopitzke stated they can keep the parcel intact, or combine for 1 large parcel.

60 Bowman stated that the need to settle an estate is a hardship.

61 Administrator Moorse stated these are unique circumstances with the landlocked parcels.

62 Parker suggested they do an easement to the 40 acre parcel.

63 Hale stated that the city doesn't have the right to come in and say they can't settle the estate. This is a minor
64 variance request.

65 **Motion/Second Bowman/Hale move to recommend approval with findings and conditions of staff**
66 **listed:**

67 **Findings**

- 68 **1. The subject parcels are in the Ag zone**
- 69 **2. The existing lot at 50th Street already has an irregular "L" shape**
- 70 **3. The undeveloped parcel to the north is landlocked with no frontage on a public road.**
- 71 **4. The 40-acre parcel to be divided is landlocked, with no frontage on a public road.**
- 72 **5. While adding one-half of the parcel to the 50th Street parcel would make that portion no longer**
73 **landlocked, it would make the resulting parcel substantially more irregularly shaped.**
- 74 **6. Because the 40-acre parcel is under the same ownership as the 13852 50th Street parcel, the**
75 **property owner could combine the two parcels without action by the City.**
- 76 **7. Adding one-half of the 40-acre parcel to the landlocked parcel to the north would increase the**
77 **nonconformity of the landlocked parcel by increasing the size of the nonconforming**
78 **(landlocked) parcel.**
- 79 **8. An existing 60 foot wide access easement runs through the parcel at 13852 50th Street from 50th**
80 **Street to serve the landlocked parcel to the north**

81 **Conditions**

- 82 **1. Confirmation that the access easement can be used for a driveway or a public road to serve**
83 **future development on the landlocked parcel to the north.**

84
85 Bowman asked what is worse, a landlocked parcel or a flag lot.

86 Doherty stated she is struggling to see how this meets conditions of a variance.

87 Parker agree the variance criteria aren't being met. Would like to find way to solve this without a variance.

88 Hale stated that the hardship is how to divide the land in the estate. Is there a way to use language from
89 ordinance?

90 Doherty asked if this could be a simple subdivision.

91 Administrator Moorse stated this can be a minor subdivision.

92 Doherty asked if a minor subdivision can be done without a variance.

93 Administrator Moorse stated this makes a non-conforming parcel to become more non-conforming, based on
94 size. Question is, can that be done without a variance.

95 Kopitzke is this the minimum variance required?

96 Doherty either approach is tricky, but better to avoid the variance.

97 Dawson agreed, avoid the variance.

98 Administrator Moorse stated he would rather avoid a non-conforming subdivision.

99 Parker stated that they own the land all around this.

100 Hale stated this was part of the estate, there are differing land values.

101 Doherty stated it should be irrelevant that it is part of an estate and they are relatives. Should find a way to do
102 this based on the lots.

103 Motion Vote

104 **Roll call: Doherty nay, Bowman aye, Dawson nay, Hale aye, Parker nay, Kopitzke aye. Motion fails 3-**
105 **3.**

106 The application will go to the City Council meeting with recommendation to deny.
107 Doherty noted that the application failed due to mechanics for the split, but there was general agreement to
108 find a way to complete this.
109 Parker noted that it did not meet hardship requirement for a variance.
110
111
112 B. Overall update cover memo and revised site plan for items 6c, 6d, 6e.
113
114 Chair Kopitzke opened the public hearing at 7:49 pm.
115 Administrator Moorse stated that last month the commission asked for consolidated plans for the entire
116 property. Updated site plans have been provided for screening, storm water management, fencing.
117 Jeff Pearson, City Engineer, explained the drainage patterns. They will not change or increase, the total
118 volume should be the same, rate should decrease with the berms and holding areas.
119 Parker thought the retaining pond would be larger. Is that one sufficient?
120 Pearson stated they are sufficient to area draining in the parcel.
121 Parker asked if it is in the pathway of water from other properties?
122 Pearson stated he would like to see a detailed final plan. It will also be reviewed by watershed district.
123 Regarding fencing, each solar farm has to have a demarcation of infrastructure, so fencing is required between
124 each one.
125 Hale noted these are rules from Xcel.
126 Buffers will be maintained by property owner.
127 The Valley Branch watershed still needs to review the permit to have solar arrays.
128 Bob Kirmis, city planner, stated that no changes were made to his report, but the conditions for approval were
129 updated.
130 Evan Carlson, Impact Power, stated that representatives for each developer are present. One consultant was
131 used for all three projects to address the parcel as a whole.
132 Noah Waterhouse, engineer, designed the drainage plan.
133 Patrick Dalseth, Sunvest Solar, introduced himself.
134 Mike Bufalini, GRD Energy, introduced himself.
135 Council member Wroblewski asked if there is a house on the eastern boundary.
136 Administrator Moorse stated there is a power line with 100' easement to the mosque property. Beyond that is
137 residential.
138 Brad Bechel, property owner to the south, asked about cutting the woods to the property line. Buffer area to
139 residential should be 100'. Grading in southeast corner is concerning.
140 No other comments were received.
141 **Motion/Second Bowman/Kopitzke to close public hearing. Roll call: all aye, passed 6-0.**
142 Public hearing closed at 8:26pm
143 Chair Kopitzke stated this consolidated plan is much better for review. The buffer can be reduced down to 50'
144 only if opacity requirements are met.
145 Hale asked who is going to judge the opacity.
146 Administrator Moorse stated the landscape expert from WSB has reviewed the plan and determined that it
147 will meet the criteria.
148 Bowman asked if a different business comes in, will the screening change?
149 Administrator Moorse stated that any change in use will require a new CUP and screening will be reviewed.
150 Parker asked if the opacity will be checked in 5 years.
151 Hale asked who will monitor if screening is healthy and maintained.
152 Dawson asked what the guaranteed period is.
153 Moorse 1-2 years typical for warranty.
154 Parker stated if the 50' buffer doesn't work, they may have to tear out solar panels to increase buffer.
155 Kopitzke stated that they are keeping a clear natural grass space before they have solar panels.
156 Parker asked about procedure, since the watershed district hasn't made a ruling yet.
157 Chair Kopitzke stated the PC can make approval conditional. Will the fencing be the same for all three. (yes)

158 Dawson asked if the area with the oaks be replanted after decommissioning.
159 Jim, arborist, stated the majority of trees on site were scrub trees, a few oaks. This is a young forest.
160 Brad Bechel stated the south corner has old growth.

161
162
163 C. Impact Power Solutions Conditional Use Permit and Variance Application for a Solar Garden on the
164 Eastern Portion of lot 6 of the new Afton Business Park subdivision at the property with PID#
165 06.028.20.24.0004, located in the southeast quadrant of Manning Avenue and Hudson Road.
166

167 Chair Kopitzke opened the public hearing at 8:50 PM

168 Administrator Moore stated that there are two application for review, the CUP and a variance application
169 relating to the removal of trees in southern portion of parcel. The variance is to allow the clear cutting of
170 trees on areas with slope greater than 13%.

171 Brad Bechel, neighbor, stated these are old trees.

172 Evan Carlson, developer, stated the area being cut on a 13% slope is small.

173 No other comments were received

174 **Motion/Second Hale/Parker to close public hearing. Roll call: all aye, passed 6-0.**

175 Bowman suggested adding a condition to make effort to harvest the wood rather than waste it.

176 Hale stated this is a low impact industrial use. They've done a good job working with our requests.

177 Parker asked about the variance questionnaire.

178 Carlson provided a detailed application with additional questions above what the questionnaire required.

179 Parker stated he has a hard time with the hardship question - they knew the land condition when they
180 bought it.

181 Chair Kopitzke noted that this is an allowed use for the industrial zone.

182 Brad Bechel, stated this area used to be residential, was changed to industrial.

183 Bowman stated that other potential uses for this property could involve noise, light, traffic. This is a
184 passive use.

185 **Motion/Second Doherty/Hale to recommend approval of the Impact Power Solutions
186 Variance Application to enable the clearing of trees in areas with slope greater than 13%
187 at the property with PID# 06.028.20.24.0004, located in the southeast quadrant of
188 Manning Avenue and Hudson Road with additional findings:**

- 189 • Use requires the trees to be removed
- 190 • The slope is close to the 13% threshold
- 191 • Native grass plantings will mitigate runoff issues and stabilize the soil

192 **Roll call: all aye, passed 5-1. (Parker nay)**

193
194 **Motion/Second Kopitzke/Bowman to recommend approval of the Impact Power Solutions CUP
195 with conditions 1-22; and addition of #23 “applicants make good faith effort to harvest trees that
196 are to be cut down”.**

- 197 1. The City approve the requested variance to allow the clearing of trees (clear cutting) on slopes
198 greater than 13 percent upon the subject site.
- 199 2. A map and legal description shall be provided to delineate the area of Lot 1 which is to be
200 devoted to the Impact Power Solutions solar garden and the conditions of conditional use
201 permit approval be applied to this delineated site.
- 202 3. Site access issues shall be subject to further comment and recommendation by the City
203 Engineer.
- 204 4. Solar arrays which are erected within the flood fringe and encroach within the drainage and
205 utility easement located along the south property line shall be subject to review and approval
206 by the Valley Branch Watershed District and City Engineer. The solar array plan shall be
207 modified, if necessary, based on the decisions of the Watershed District. If the solar array
208 modifications are substantive, an amended CUP may be required.
- 209 5. The City's newly amended I-IC District buffer yard requirements shall be satisfied.

- 210 6. Financial Security sufficient to ensure the provision of the required screening shall be
- 211 provided.
- 212 7. Stormwater management issues shall be subject to comment and recommendation by the City
- 213 Engineer.
- 214 8. The approval of the CUP shall be subject to the City's review of an interconnection agreement
- 215 with the electric utility.
- 216 9. The height of solar arrays located within the Floodplain Overlay District shall adhere to all
- 217 recommendations provided by the Valley Branch Watershed District and City Engineer.
- 218 10. The decommissioning of solar panels must occur in the event they are not used for six
- 219 consecutive months (rather than 12 months as indicated in the applicant's narrative).
- 220 11. A financial security shall be in place to ensure proper decommissioning. The amount and
- 221 form of such security shall be subject to comment and recommendation by the City Attorney
- 222 and City Engineer.
- 223 12. The submitted equipment specifications shall be modified to reference the City of Afton,
- 224 Minnesota as the project location (rather than St. Joseph, Minnesota).
- 225 13. The proposed security fence type and height shall be clarified by the applicant.
- 226 14. Fences over six feet in height shall be subject to a building permit.
- 227 15. If fencing is allowed in the drainage and utility easement area, and if a fence needs to be
- 228 removed to enable access to the easement area, the property owner will be responsible for
- 229 replacing the fence after the necessary work in the easement area is completed.
- 230 16. Signs to be erected upon the site will need to comply with the applicable sign provisions of the
- 231 City's Zoning Ordinance (Sections 12-210, 12-211 and 12-212).
- 232 17. To ensure safe operations, the following conditions shall be satisfied:
- 233 A. Signage shall be posted at the entrance to the solar garden which includes, at a minimum,
- 234 the owner and operator's name, contact information and emergency phone numbers.
- 235 B. The solar garden shall meet or exceed all requirements of the International Building
- 236 Code, the National Electrical Code, and local electric and fire codes.
- 237 C. The applicant shall provide a key or lock to the Lower St. Croix Valley Fire
- 238 Department to enable access the solar garden site.
- 239 18. Issues related to wetland impacts shall be subject to comment and recommendation by the City
- 240 Engineer and the Valley Branch Watershed District.
- 241 19. Issues related to grading, drainage and utilities shall be subject to comment and
- 242 recommendation by the City Engineer.
- 243 20. Comments of other City Staff.

244 **Roll call: all aye, passed 6-0**

245
246 D. Sunvest Solar LLC Conditional Use Permit Application for a Solar Garden on the Central Portion of
247 lot 6 of the new Afton Business Park subdivision at the property with PID# 06.028.20.24.0004, located in
248 the southeast quadrant of Manning Avenue and Hudson Road.

249
250 Chair Kopitzke opened the public hearing at 9:18 pm.

251 Brad Bechel, neighbor, would prefer 100' buffer, but these two sites are not as much of an issue since the
252 wetland is there. More concerned with what could come after solar farms leave. Also concerned about
253 water runoff.

254 **Motion/Second Hale/Dawson to close public hearing. Roll call: all aye, passed 6-0.**

255 Public hearing closed at 9:20 pm

256 Dawson asked if we need to provide findings to support a 50' buffer rather than 100' for future
257 development.

258 Parker stated this is for a CUP, other uses will be different.

259 Bob Kirmis, Planning Consultant, stated that after solar garden use, this is considered undeveloped
260 property that will have to meet all ordinances for any future development.

261 **Motion/Second Hale/Doherty to recommend approval of the Sunvest Solar CUP application with**
262 **conditions listed:**

263 **Conditions**

- 264 1. A map and legal description shall be provided to delineate the area of Lot 1 which is to be
265 devoted to the Sunvest solar garden so that the conditions of conditional use permit approval
266 can be applied to this delineated site.
- 267 2. Site access issues shall be subject to further comment and recommendation by the City
268 Engineer.
- 269 3. The site plan shall be modified to illustrate the boundaries of the Floodplain Overlay District
270 and drainage and utility easements.
- 271 4. Solar arrays which are erected within the flood fringe shall be subject to review and approval
272 by the Valley Branch Watershed District and City Engineer.
- 273 5. Issues related to wetlands including, but not limited to, the possible encroachment of solar
274 arrays within related drainage and utility easements and wetland buffer areas shall be subject to
275 comment and recommendation by the City Engineer and review and approval by the Valley
276 Branch Watershed District; and the solar array plan shall be modified, if necessary, based on
277 the decisions of the Watershed District. If the solar array modifications are substantive, an
278 amended CUP may be required.
- 279 6. Issues related to stormwater management shall be subject to comment and recommendation by
280 the City Engineer.
- 281 7. The approval of the CUP shall be subject to the City's review of an interconnection agreement
282 with the electric utility.
- 283 8. The City's newly amended I-IC District buffer yard requirements shall be satisfied
- 284 9. Financial Security sufficient to ensure the provision of the required screening shall be provided.
- 285 10. The height of solar arrays located within the Floodplain Overlay District shall adhere to all
286 recommendations provided by the Valley Branch Watershed District and City Engineer.
- 287 11. The applicant shall demonstrate compliance with applicable I-IC District setback requirements.
- 288 12. A decommissioning plan shall be submitted which satisfies the requirements of Section 12-
289 230.H.2 of the Ordinance.
- 290 13. The applicant shall clarify the intended fence access gate height (six or seven feet).
- 291 14. The City Engineer and Valley Branch Watershed District provide comment and
292 recommendation related to the possible encroachment of the proposed security fence within a
293 wetland buffer area and a drainage and utility easement.
- 294 15. If fencing is allowed in the drainage and utility easement area, and if a fence needs to be
295 removed to enable access to the easement area, the property owner will be responsible for
296 replacing the fence after the necessary work in the easement area is completed.
- 297 16. Signs to be erected upon the site shall comply with the applicable sign provisions of the City's
298 Zoning Ordinance (Sections 12-210, 12-211 and 12-212).
- 299 17. To ensure safe operations, the following conditions shall be satisfied:
300 D. Signage shall be posted at the entrance to the solar garden which includes, at a minimum, the
301 owner and operator's name, contact information and emergency phone numbers.
302 E. The solar garden shall meet or exceed all requirements of the International Building Code,
303 the National Electrical Code, and local electric and fire codes.
304 F. The applicant shall provide a key or lock to the Lower St. Croix Valley Fire Department to
305 enable access the solar garden site.
- 306 18. Issues related to grading, drainage and utilities shall be subject to comment and
307 recommendation by the City Engineer.
- 308 19. Comments of other City Staff.

309 **Roll call: all aye passed 6-0.**
310

311 E. DIVOCSG 16 LLC Conditional Use Permit Application for a Solar Garden on the Western Portion of Lot
312 6 of the New Afton Business Park Subdivision at the Property with PID# 06.028.20.24.0004, located in the
313 southeast quadrant of Manning Avenue and Hudson Road.
314

315 Chair Kopitzke opened the public hearing at 9:31pm
316 Brad Bechel asked if the Army Corps of Engineers has been involved at all. (The Army Corps of Engineers
317 had been contacted, but had no interest at this time).

318 No other comments were received

319 **Motion/Second Hale/Patten to close public hearing. Roll call: all aye, passed 6-0.**

320 Public hearing closed at 9:34 pm

321 **Motion/Second Hale/Doherty to recommend approval of the DIVOCSG CUP application with**
322 **conditions listed below:**

- 323 1. A map and legal description shall be provided to delineate the area of Lot 1 which is to be
324 devoted to the DivoCSG 16 solar garden so that the conditions of conditional use permit
325 approval can be applied to this delineated site.
- 326 2. Site access issues shall be subject to further comment and recommendation by the City
327 Engineer.
- 328 3. The three southernmost rows of solar arrays shall meet the required 50 foot west rear yard
329 setback.
- 330 4. The acceptability of the solar array encroachment within the drainage and utility easement
331 located along the south property line shall be subject to review and approval by the Valley
332 Branch Watershed District and comment and recommendation by the City Engineer. The
333 solar array plan shall be modified, if necessary, based on the decisions of the Watershed
334 District. If the solar array modifications are substantive, an amended CUP may be required.
- 335 5. The site plan shall be modified to illustrate the boundary of the Floodplain Overlay District.
- 336 6. Solar arrays which are erected within the flood fringe shall be subject to review and approval
337 by the Valley Branch Watershed District and City Engineer.
- 338 7. Stormwater management issues shall be subject to comment and recommendation by the City
339 Engineer.
- 340 8. The approval of the CUP shall be subject to the City's review of an interconnection agreement
341 with the electric utility.
- 342 9. The City's newly amended I-IC District buffer yard requirements shall be satisfied.
- 343 10. Financial Security sufficient to ensure the provision of the required screening shall be
344 provided.
- 345 11. The height of solar arrays located within the Floodplain Overlay District shall adhere to all
346 recommendations provided by the Valley Branch Watershed District and City Engineer.
- 347 12. The decommissioning of solar panels must occur in the event they are not used for six
348 consecutive months (rather than 12 months as indicated in the applicant's narrative).
- 349 13. A financial security shall be in place to ensure proper decommissioning. The amount and
350 form of such security shall be subject to comment and recommendation by the City Attorney
351 and City Engineer.
- 352 14. Fences over six feet in height shall be subject to a building permit.
- 353 15. If fencing is allowed in the drainage and utility easement area; if a fence needs to be removed
354 to enable access to the easement area, the property owner will be responsible for replacing the
355 fence after the necessary work in the easement area is completed.
- 356 16. Signs to be erected upon the site will need to comply with the applicable sign provisions of the
357 City's Zoning Ordinance (Sections 12-210, 12-211 and 12-212).
- 358 17. To ensure safe operations, the following conditions shall be satisfied:
359 A. Signage shall be posted at the entrance to the solar garden which includes, at a minimum, the
360 owner and operator's name, contact information and emergency phone numbers.

- 361 B. The solar garden shall meet or exceed all requirements of the International Building Code,
362 the National Electrical Code, and local electric and fire codes.
363 C. The applicant shall provide a key or lock to the Lower St. Croix Valley Fire Department
364 to enable access the solar garden site.
365 18. Issues related to grading, drainage and utilities shall be subject to comment and
366 recommendation by the City Engineer.
367 19. Comments of other City Staff.

368 **Roll call: all aye, passed 6-0.**

369
370 **7. NEW BUSINESS –**

- 371 A. Re-start in-person Planning Commission Meetings
372 The City Council is planning to meeting in-person in July. Given the PC schedule, starting in person meetings
373 in August would work best. Zoom will still be available for public access.
374 Planning Commission members would like to maintain the option to join meetings remotely. They noted it has
375 been easier to have a quorum this past year. They would like the council to develop a resolution to allow for
376 flexibility.
377 Administrator Moore stated that it is unclear if state statute will need to be updated to allow remote meetings
378 to continue.
379
380 B. Reminder that July 5 Planning Commission meeting has been rescheduled to June 28.

381 **8. OLD BUSINESS –**

- 382 A. Update on City Council actions
383 Council member Wroblewski provided a summary of the May18, 2021 City Council meeting.
384

385
386 **9. ADJOURN**

387 **Motion/Second Hale/Parker To adjourn. Roll call: all aye, Passed 6-0.**

388
389 Meeting adjourned at 9:50 PM.

390
391
392 Respectfully submitted by:

393
394 JY
395 Julie Yoho, City Clerk

396
397
398 To be approved on June 28, 2021 as (check one): Presented: _____ or Amended: _____ x
399

400