



Carver County Board of Commissioners
 February 27, 2018
Special Session
 County Board Room
 Carver County Government Center
 Human Services Building
 Chaska, Minnesota

Please Note This Meeting Will Begin At 8:00 A.M.

PAGE

- | | | | | | |
|------------|-----|----|--|---|--|
| 8:00 a.m. | 1. | a) | CONVENE | | |
| | | b) | Pledge of allegiance | | |
| | | c) | Public comments | <i>- Anyone wishing to address the Board of Commissioners on an item not on the agenda may come forward at this time. Please limit your comments to five minutes.</i> | |
| | 2. | | Agenda review and adoption | | |
| | 3. | | Approve minutes of February 20, 2018, Regular Session | 1-5 | |
| | 4. | | Community Announcements | | |
| 8:05 a.m. | 5. | | CONSENT AGENDA | | |
| | | | <i>Growth: Manage the challenges and opportunities resulting from growth and development</i> | | |
| | 5.1 | | Metropolitan Council Grant for Stormwater Retrofit..... | 6-7 | |
| | | | <i>Communities: Create and maintain safe, healthy and livable communities</i> | | |
| | 5.2 | | 2018 Mental Health Mobile Crisis Response Services Grant Contract Approval..... | 8-9 | |
| | | | <i>Culture: Provide organizational culture fostering accountability to achieve goals and sustain trust/confidence in County government</i> | | |
| | 5.3 | | Out of State Travel | 10 | |
| | | | <i>Finances: Improve the County's financial health and economic profile</i> | | |
| | 5.4 | | Review Social/ Commissioners' Warrants..... | NO ATT | |
| 8:05 a.m. | 6. | | GROWTH: Manage the challenges and opportunities resulting from growth and development | | |
| | 6.1 | | USS King Solar LLC - Large Solar Energy System | 11-16 | |
| | 6.2 | | USS Hollywood Solar LLC - Large Solar Energy System | 17-23 | |
| | 6.3 | | USS Hancock Solar LLC - Large Solar Energy System..... | 24-29 | |
| 10:00 a.m. | | | ADJOURN REGULAR SESSION | | |
| 10:00 a.m. | | | BOARD REPORTS | | |
| | | 1. | Chair | | |
| | | 2. | Board Members | | |
| | | 3. | Administrator | | |
| | | 4. | Adjourn | | |

David Hemze
 County Administrator

UPCOMING MEETINGS

March 6, 2018	9:00 a.m. Board Meeting
March 13, 2018	No Meeting
March 20, 2018	4:00 p.m. Board Meeting
March 27, 2018	9:00 a.m. Work Session

A Regular Session of the Carver County Board of Commissioners was held in the County Government Center, Chaska, on February 20, 2018. Chair Gayle Degler convened the session at 4:05 p.m.

Members present: Gayle Degler, Chair, Randy Maluchnik, Vice Chair, James Ische and Tim Lynch.

Members absent: Tom Workman

Lynch moved, Maluchnik seconded, to approve the agenda. Motion carried unanimously.

Ische moved, Maluchnik seconded, to approve the minutes of the February 13, 2018, Special Session. Motion carried unanimously.

Community announcements were made by the Board.

Maluchnik moved, Lynch seconded, to approve the following consent agenda items:

Resolution #13-18, Supporting the Maintenance of Local License Bureaus.

Approved eliminating the vacant 0.80 FTE librarian in the Law Library and creating a 0.80 FTE paralegal in the Law Library.

Approved elimination of 1.0 FTE nurse practitioner psychiatry, contract with Innovatel for telepsychiatry services, and related HH&S budget amendment.

Resolution #14-18 2018 Seasonal Road Restrictions.

Authorized the Sheriff's Office acceptance of large wood law enforcement flag and stuffed animal donations.

Resolution #15-18, County Board Acknowledgment 3 Bridge Rehabilitation Projects (PR 148743, 148745, 15870; SAP 010-633-045, 010-623-008; 010-611-017) Final Payment.

Resolution #16-18, Requesting Support for Pursuit of Corridors of Commerce Funding for Highway 41 Improvements in Downtown Chaska.

Joint Powers Agreement with the City of Chaska for the TH 41 Expansion Project – Jonathan Area Phase, pending finalization of the contract review process.

Resolution #17-18, Authorizing Offers of Just Compensation to Owners for Acquisition of Real Property Interest Needed for Bridge No. 10J41 Construction Project (158795).

Reviewed February 20, 2018, Community Social Services' actions/Commissioners' warrants in the amount of \$505,421.43.

Motion carried unanimously.

Kerie Anderka, Employee Relations, noted the previous closed session held to discuss and evaluate Administrator Hemze's 2017 performance. She read a summary of his performance recognizing his 2017 performance had been outstanding.

Ische moved, Lynch seconded, to approve an overall rating of outstanding for County Administrator Hemze's 2017 performance. Motion carried unanimously.

Martin Walsh, Parks Director, requested the Board approve the TH 5 Regional Trail Master Plan and approve the submittal to the Met Council. He noted they had been working on this over the past year. He indicated regional parks and trails were popular activities and well used. He pointed out the existing trails and future trail considerations.

Walsh highlighted the requirements the Master Plan must follow. He indicated they undertook a robust public process and pointed out the agencies that had reviewed and letters of support received. He stated there was no known opposition. He identified the trail alignment and stated the Regional Trail Master Plan makes the trail eligible for regional funding.

Ische offered the following Resolution, seconded by Maluchnik:

Resolution #18-18
TH 5 Regional Trail Master Plan

On vote taken, all voted aye.

Paul Moline, Planning and Water Management, requested approval for the release of the preliminary draft 2040 County Comprehensive Plan Land Use Chapter to allow for township review and comment. He referenced the memo included in the Board's packet and the five major sections of the plan. He pointed out the need to submit the final version by the end of the year.

He indicated the plan proposes to continue the policy of directing residential and commercial growth to the cities and keeping the townships primarily agricultural. Moline reviewed the four residential density options for the townships. He noted the additional requirements from the Met Council and the removal of the economic development opportunity policy areas.

Moline pointed out the previous work session held to review policy changes that included the addition of "energy production" as a use type in the essential services policy. He indicated the solar resource section was also revised to meet the Met Council requirements.

Ische moved, Lynch seconded, to approve the release of the preliminary draft land use chapter for township review along with their respective draft township policy chapters. Motion carried unanimously.

Lynch moved, Maluchnik seconded, to go into closed session pursuant to Minn. Stat. Section 13D.05, subd. 3(b) to discuss confidential valuation information for negotiating with the property owner of PID #08.0300900. Motion carried unanimously.

The Board adjourned the closed session at 4:55 p.m. and recessed until 5:30 p.m.

Lynch moved, Maluchnik seconded, to reconvene the meeting at 5:35 p.m. Motion carried unanimously.

Greg Boe, Environmental Services Manager, appeared before the Board for approval for staff to proceed with a proposed partnership with the University of Minnesota Landscape to develop a brush transfer site. He pointed out the number of visits to the Environmental Center to drop off brush and vegetation in 2017. He indicated they were trying to find a solution to reduce the heavy lines of traffic and get this nonhazardous material away from the Environmental Center. He explained they wanted a site located in eastern Carver County close to the population center and the majority of users.

He stated in 2015 they identified a need for locating a new site and they looked at several options. He pointed out work sessions held with the Board and neighborhood meetings. He recognized the option to discontinue the service and potential options for residents to dispose of this material at other locations. He indicated the second option was to relocate the site to the Public Works facility in Cologne. He stated there were acres available but it was not close to the population center and inconvenient for the majority of residents of Carver County.

Boe indicated they also looked at the Gedney site but it would be a drive from the north as it was on the extreme southerly boundary. He stated the Arboretum site was the fourth option. He acknowledged the concerns that were raised by the cities and identified the steps they have taken to address those concerns. Boe explained the site would be a convenient location for 11,000 customers, the area was zoned agricultural, the use was compatible with the Arboretum and they were offering a no cost lease. He reviewed the proposed operational schedule and indicated leaves and grass would be hauled weekly and not allowed to compost on site. Boe noted the revised access to the site and estimated cost to prepare the site. Boe clarified, if this were approved, the Environmental Center would no longer accept this material. He also clarified there are also no size limitations at the County site as there is with curbside pickups.

Peter Moe, Minnesota Landscape Arboretum, clarified the Arboretum currently has a spot on the south side and that would close as they would be getting woods chips from this new site.

Emily Hearon, 781 Applewood Circle, asked that the issue be tabled as Commissioner Workman was not able to attend tonight's meeting. She pointed out this was a gravel road and not designed for heavy traffic. She referenced County Ordinance 152.054 Section D, that states waste management facilities should be on hard surfaced roads and inquired if the location was in compliance with this Ordinance. She pointed out Statute 9215.0610 related to yard waste programs and questioned if all

requirements outlined were met. She also pointed out guidelines from the MPCA guide to noise controls and inquired if the site would be in compliance with the rules.

Dave Rix, 728 Oak Court, suggested the Gedney site was a better suited site than the 82nd Street site. He stated the majority of the yard waste comes from Chaska and Chanhassen, with only 10% of the users coming from Victoria. He added the Gedney site would also be able to handle future growth and a safer site to access.

Lee Marske, 716 Applewood Circle, raised his concerns with the 82nd intersection and stated there was no left turn lane. He referenced the future Event Center that would increase traffic and the current traffic generated from Holy Family students.

Christine Galbreath, 768 Applewood Circle, pointed out the letter from the Victoria City Council asking that they table until a full Board is present and recommending the Gedney site. She noted the letter from the City of Chaska raising their concerns related to the Arboretum site. She distributed a petition signed by 400 residents opposing the location and stated there was no public support.

Jim Paulsen, Victoria resident, raised his concerns with the lack of planning documents for the site that they could view. He questioned where they were and what they included.

Greg Hocamp, Victoria resident, stated he was in support of a private option for this service and noted many of the counties do not provide this level of service. He stated the cost is the same whether the private provides this service or the County.

Tom McPherson, 705 Applewood Circle, stated he did not believe government should compete with private enterprise and anything the private provides, he would like to see government step out of. He pointed out Statutes related to public and private nuisances and the number of families living in the area. He noted Bavaria was a scenic drive with rolling hills and this proposal takes away from that aesthetic beauty.

Tom Funk, Victoria City Mayor, 7985 Acorn Circle, asked the Board to table until they had a full Board present. He indicated he had not spoken to one Victoria resident in support of the site and referenced the letter the City Council submitted. He suggested, as a resident, the Cologne site may be a better long term solution.

Daniel Gay, 1081 West 82nd Street, stated this was a neighborhood and not an industrial site where it belongs. He pointed out safety aspects and the number of vehicles lined up to access the site would create a traffic jam. He indicated the proposed berm and trees would not block the view of traffic and the dust control proposed would be insufficient. He stated the only way to make this work was to pave the road and that was not going to occur in the near future. He asked the Board to reject this site and not consider it again.

Bonnie Houck, 776 Applewood Circle, questioned what chemicals would be used for dust control. She raised her concerns with dust control and potential consequences to water and air.

Dan Conkey, 1251 West 82nd Street, asked for the issue to be tabled. He stated this was for a commercial use across from a residential site. He noted the road was also used by many young drivers and asked that this be placed somewhere else.

Peter Moe, Minnesota Landscape Arboretum, stated the Arboretum was looking for a way to deal with their ever increasing yard waste at the same time they were contacted by the County. He indicated the Arboretum and the County has been working together for 25 years and he has been always been impressed. He stated this was a win for both the Arboretum and residents wishing to recycle yard waste. He noted they had two public meetings and looked at different sites. He stated this site worked the best for the Arboretum's operations as well as being accessible to the public.

The Board inquired if the Statutes and Ordinances raised tonight would preclude them from moving forward.

Mark Metz, County Attorney, stated he would like to further research the issues raised at tonight's meeting and provide a legal memo to the Board.

Maluchnik moved, Ische seconded, to table the issue until the February 27, 2018 meeting. Motion carried unanimously.

David Hemze, County Administrator, pointed out scheduling conflicts with the February 28th meeting and recommended the issue be tabled until the April 3rd meeting.

Ische acknowledged they have heard a variety of concerns and stated he would like to hear back from the County Attorney.

Maluchnik moved to amend his above motion and table the issue to the April 3, 2018 meeting with a time to be determined, Ische seconded the amendment. On vote taken, all voted aye.

Administrator Hemze pointed out the April 3rd agenda would be posted on the County's website to confirm the time.

Lynch moved, Maluchnik seconded, to adjourn the Regular Session at 6:50 p.m. Motion carried unanimously.

David Hemze
County Administrator

(These proceedings contain summaries of resolutions/claims reviewed. The full text of the resolutions and claims reviewed are available for public inspection in the office of the county administrator.)

Carver County Board of Commissioners Request for Board Action



Agenda Item:

Metropolitan Council Grant for Stormwater Retrofit

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:
Consent

Amount of Time Requested: minutes
Presenter: Title:

Attachments: Yes No

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

Carver County applied for, and was awarded, a grant from the Metropolitan Council. This Met Council Stormwater Grant will allow the installation of a stormwater retrofit project at ISD 112's Kindergarten Center in Chaska (Phase II of the overall stormwater retrofit design). The project aims to provide stormwater treatment to one of ISD 112's properties discharging to Lake Grace and will be matched by budgeted Carver County Water Management Organization (CCWMO) funds.

ACTION REQUESTED:

Motion to authorize the Chair to sign the grant agreement with the Metropolitan Council pending the County's customary contract review.

FISCAL IMPACT:

If "Other", specify:

FTE IMPACT:

FUNDING

County Dollars =	\$0.00
CCWMO	\$32,500.00
Metropolitan Council	\$37,500.00
Total	\$70,000.00

Insert additional funding source

Related Financial/FTE Comments:

The \$32,500 match is derived from CCWMO budgeted cost share funds.

Office use only:

RBA 2018 - 5223

Budget Amendment Request Form



To be filled out AFTER RBA submittal

Agenda Item: Metropolitan Council Grant for Stormwater Retrofit

Department:

Meeting Date:

Fund:

- 01 - General
- 02 - Reserve
- 03 - Public Works
- 11 - CSS
- 15 - CCRRA
- 30 - Building CIP
- 32 - Road/Bridge CIP
- 34 - Parks & Trails
- 35 - Debt Service

Requested By:

DEBIT		
Description of Accounts	Acct #	Amount
Metropolitan Council Grant	01-123-123-0-5285	\$37,500.00
TOTAL		\$37,500.00

CREDIT		
Description of Accounts	Acct #	Amount
Professional Services	01-123-123-0-6260	\$37,500.00
TOTAL		\$37,500.00

Reason for Request:

Add grant funding to the 2018 budget for Planning and Water Management.

Carver County Board of Commissioners Request for Board Action



Agenda Item:

2018 Mental Health Mobile Crisis Response Services Grant Contract Approval

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:
Consent

Amount of Time Requested: minutes
Presenter: Title:

Attachments: Yes No

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

The MN Department of Human Services, Mental Health division has historically provided funds to Counties to operate Mobile Crisis Response Programs. For 2018 DHS has awarded Carver County \$873,00 to operate Mobile Crisis Response programs in Carver and McLeod counties. \$700,000 is allocated for the Carver County program, and \$173,000 for McLeod. Carver County will operate as the fiscal agent for both Counties.

The 2018 grant amount of \$873,000 is \$411,734 less than what was allocated in 2018. In response, since the program will no longer be providing services to Scott County, the program is eliminating a vacant supervisor position as well as a vacant crisis therapist position. This creates a savings of \$204,445. In addition, other changes have been made to the program due to necessary right sizing that will bring in additional unbudgeted revenue of \$207,289. No additional levy dollars will be required for 2018.

ACTION REQUESTED:

Motion to approve the 2018 DHS grant contract for Mental Health Mobile Crisis Response services in the amount of \$873,000.00 pending approval of Attorney and Risk Management.

FISCAL IMPACT:

If "Other", specify:

FUNDING

County Dollars =	<input type="text" value=""/>
DHS Grant	\$873,000.00
Total	\$873,000.00

FTE IMPACT:

Insert additional funding source

Related Financial/FTE Comments:

No additional county levy dollars required. Budget Amendment required to adjust for what has been budgeted for 2018 and actual grant contract amount, including adjustments indicated above.

Office use only:

RBA 2018- 5281

Budget Amendment Request Form



To be filled out AFTER RBA submittal

Agenda Item: 2018 Mental Health Mobile Crisis Response Services Grant Contract Approval

Department:

Meeting Date:

Fund:

- 01 - General
- 02 - Reserve
- 03 - Public Works
- 11 - CSS
- 15 - CCRRA
- 30 - Building CIP
- 32 - Road/Bridge CIP
- 34 - Parks & Trails
- 35 - Debt Service

Requested By:

DEBIT		
Description of Accounts	Acct #	Amount
McLeod Salaries	11-480-745-0000-6111	\$173,000.00
Crisis Salaries	11-480-746-0000-6111	\$700,000.00
TOTAL		\$873,000.00

CREDIT		
Description of Accounts	Acct #	Amount
McLeod Crisis Grant	11-480-745-0000-...	\$173,000.00
Carver Crisis Grant	11-480-740-0000-...	\$700,000.00
Crisis PMAP Revenue	11-480-740-0000-...	\$207,289.00
Elimination of 2 vacant Crisis positions	11-480-746-0000-...	\$204,445.00
TOTAL		\$1,284,734.00

Reason for Request:

Acceptance of the 2018 Crisis Grants which are lower than originally anticipated for the 2018 budget. 2 positions are to be eliminated and an increase in budgeted revenue will fill this gap.

Carver County Board of Commissioners Request for Board Action



Agenda Item:
Out of State Travel

Primary Originating Division/Dept: Administration (County)

Meeting Date: 2/27/2018

Contact: Dave Hemze Title:

Item Type:
Consent

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:
Culture: Provide organizational culture fostering accountability to achieve goals & sustain public trust/confidence in County government

BACKGROUND/JUSTIFICATION:

As part of his conference and training 2018 budget, Commissioner Maluchnik identified he would be attending the Rural Action Caucus Conference in California the fall of 2018. That conference has now been moved and combined with the Rural Action Summit to be held on April 5-7, 2018, in West Palm Beach. Commissioner Maluchnik is seeking approval for this minor change.

ACTION REQUESTED:

Authorization for Commissioner Maluchnik to attend the Rural Action Summit April 5-7, 2018.

FISCAL IMPACT: Included in current budget

If "Other", specify:

FUNDING

County Dollars = \$500.00

FTE IMPACT: None

Total \$500.00

Insert additional funding source

Related Financial/FTE Comments:

Office use only:

RBA 2018 - 5287

Carver County Board of Commissioners Request for Board Action



Agenda Item:

USS King Solar LLC - Large Solar Energy System

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

File #PZ20170025. The Planning Commission recommended approval of a Conditional Use Permit (CUP), pending a revised landscaping/screening plan, for USS King Solar LLC (US Solar - Peter Schmitt) for a Large Solar Energy System (Community Solar Garden or CSG) of up to one megawatt (1 MW). The proposed site is owned by Robert and Peggy King, and is located in Section 21 of Waconia Township. The CSG would be located on approximately 8-9 acres (currently tillable soils) of the 80.48-acre parcel. The remaining acreage would consist of agricultural production land and wetland areas.

Pursuant to the Board's direction at the February 13, 2018 meeting, an Order for denial is attached for consideration.

ACTION REQUESTED:

A motion to adopt Findings of Fact and issue Order #PZ20170025 for the denial of the Conditional Use Permit.

FISCAL IMPACT:

If "Other", specify:

FUNDING

County Dollars =

FTE IMPACT:

Total

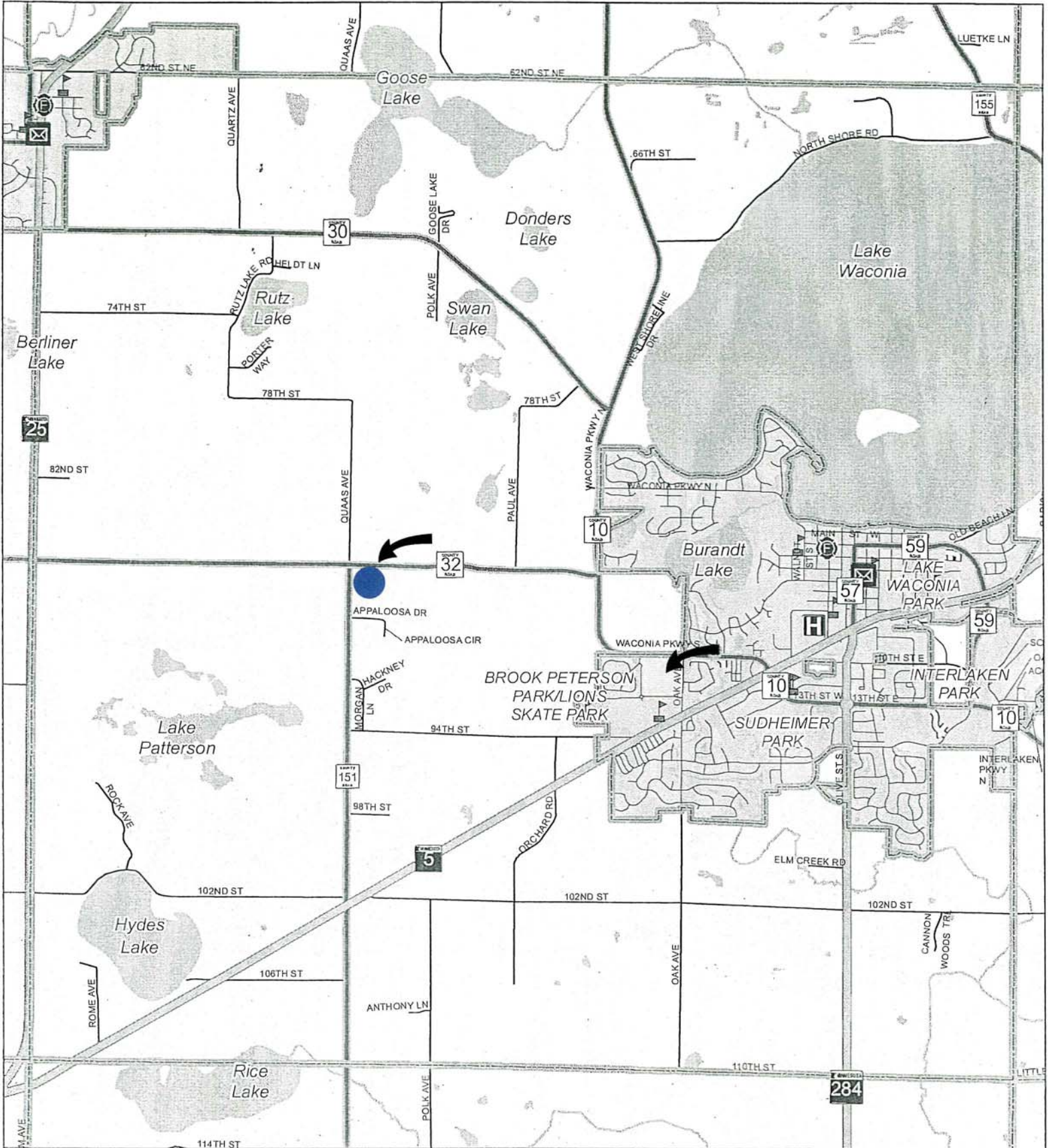
Insert additional funding source

Related Financial/FTE Comments:

Office use only:

RBA 2018 - 5280

WACONIA TOWNSHIP



This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



12 4-8

**COUNTY OF CARVER
BOARD OF COMMISSIONERS**

**AN ORDER FINDING CERTAIN FACTS AND ORDERING
THE DENIAL OF A CONDITIONAL USE PERMIT**

DATE: February 27, 2018

ORDER #: PZ20170025

FILE #: PZ20170025

APPLICANT: Peter Schmitt (United States Solar Corporation)
(Site Name: USS King 2 Solar LLC)

OWNER: Robert & Peggy King

SITE ADDRESS: 189XX Co. Rd. 151, Waconia Township

PERMIT TYPE: Renewable Energy – Large SES

PURSUANT TO: County Code, Section 152.039 (B)
and 152.052

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 09-021-0200

A public hearing was held on this matter on November 21, 2017 by the Carver County Planning Commission, and additional information was heard and submitted at the County Board meeting on February 13, 2018, and all information entered into the public record was duly considered in the issuance of this order.

FINDINGS OF FACT

1. The subject property (approximately 80.48 acres) is owned by Robert & Peggy King and is located in the NW ¼ of Section 21, Waconia Township. The proposed request is located on approximately 8-9 acres of the 80.48 acre parcel consisting of production land located in the Agricultural Zoning District and the CCWMO – Carver Creek watershed.
2. The applicant, USS King 2 Solar LLC (Peter Schmitt – US Solar), is requesting to construct, operate (by lease), and maintain up to a one (1) megawatt (MW) Community Solar Garden (CSG) as a Renewable Energy (Large – Solar Energy System) – Conditional Use Permit (CUP) on the subject parcel. The request is being proposed as part of Xcel Energy’s Community Solar Garden Program, which was established by the State of Minnesota in 2013. The Energy contract with Xcel Energy for this program is for a minimum of 25 years.
3. The proposed request is considered a Large Solar Energy System (LSES) based on the fact that the current (DC) rate capacity exceeds 100 kilowatts and would produce energy that would be added to Xcel Energy’s existing grid system. A Large SES requires a CUP pursuant to Section 152.039 and 152.052 of the Zoning Code.
4. The Carver County Board of Commissioners approved an ordinance amendment to Zoning Code Section 152.039, Renewable Energy, on July 11, 2017. The applicant’s complete application was submitted and accepted to the Carver County Land Management Department on July 10, 2017, therefore; the application has been reviewed against the previous ordinance standards. The applicant has stated that the proposed site plan was modified to meet the current Zoning Code requirements.
5. On July 25, 2017, the Carver County Land Management Department received an e-mail from US Solar LLC requesting the application be heard at the November 21, 2017 Planning Commission meeting; waiving the 60-Day Law deadline indefinitely.
6. The 2030 Carver County Comprehensive Plan identifies a land use summary table (similar to all township land use tables), which was required by the Metropolitan Council. It is for informational purposes only and it is not a land use policy. Policy LU-19 under the Agricultural Policy Area states that “certain other uses of land may be necessary or appropriate in the policy area”. Policy LU-16 under the Agricultural Policy Area states that “undue restrictions on solar

access and renewable energy should be avoided”. The use of agricultural land is temporary in nature and the impervious areas would be minimal. The amount of long term agriculture land utilized for the large SES is small in relation to the total acreage of the Xcel Energy service area. These factors are compatible with the 2030 Comprehensive Plan.

7. The applicant has noted in the operational plan “cover letter” (dated: July 8, 2017) that USS King 2 Solar LLC has submitted application on behalf of United States Solar Corporation (“US Solar”), a small business headquartered out of Minneapolis and responsible for coordinating all projects including development, permits, finance, construction, management, insurance, maintenance, monitoring, and customer service.
8. The applicant has indicated the site was selected due to its solar resource, physical characteristics (limited grading, no impact to wetlands, neighbors, and soils), proximity and access to high-value 3-phase distribution facilities (on project-side of Co. Rd. 151), applicable zoning and permit requirements, and willingness of the landowner. Robert and Peggy King have entered into a minimum 25 year lease agreement with USS King 2 Solar LLC.
9. The applicant is proposing to construct and operate up to a one (1) megawatt (MW) solar garden on the site. The major equipment components of the solar array include the solar modules, inverters, and racking. The panels would be on single-axis trackers, which rotate from east to west and will be a maximum of 10 feet in height and do not require concrete foundations therefore; are easily removed during decommissioning. The energy produced on the site would be fed to 40 inverters installed throughout the site, which would be enclosed and meet all applicable codes and standards. From the inverters, energy would be transferred to the interconnection location on the west side of the project area through underground, medium-voltage cable, to the proposed new utility pole location within an Xcel Energy easement area to the west of the proposed operational area. The exact panel, array, inverter and electrical interconnection configuration and dimensions may change based on the actual equipment and manufacturer selection however, the ultimate panel/fencing locations must remain within the approved site plan.
10. According to the applicant, no substantial grading or filling is being proposed in the design of the solar array with the exception of a 15-foot wide unpaved access road. The proposed solar racking is noted to accommodate the existing terrain allowing for maintenance of the existing drainage and runoff patterns, minimizing the impact to surrounding lands. Any/all grading would be pursuant to the final engineering design and building permit submittal.
11. During construction the hours of operation are proposed to be 7:00 a.m. – 7:00 p.m. Monday through Friday (weekends if needed). After construction, the CSG would operate 24 hours a day, 365 days a year. Site operations (energy productivity) would be monitored remotely with equipment determined and approved by Xcel Energy. There would be no daily traffic after completion of construction although, one (1) quarterly site visit (one vehicle with two authorized employees) will take place to perform routine maintenance. During the first few years of operations, a landscape maintenance crew would visit the site monthly, during the growing season, to ensure landscaping is growing and managed efficiently.
12. USS King 2 Solar LLC is proposing to drive piles (metal posts) into the ground to support the single-axis tracker racking system. The applicant has noted the piled will be installed with noise mitigating, vibrating piles that are anchored into the ground based on structural analysis which also facilitate decommissioning as they do not require cement foundations and are easily removed. The Carver County Zoning Code includes a standard which requires foundation posts to be installed using noise mitigating equipment such as a vibrating post driver or any other noise reduction method as may be stipulated by the CUP, with which the applicant would need to comply.
13. The surrounding land uses consist of agriculture, and numerous homesteads within a half mile of the project. Supplemental information, including a written narrative, updated site plan, landscape plan, and area photographs, was provided to the Carver County Board of Commissioners during the February 13, 2018, meeting. Screening was proposed at the Planning Commission’s hearing, on the north, south, and west sides of the operational area, to include Black Hills Spruce and Cardinal Dogwoods as a tiered buffer along the west and north sides and Techny Arborvitae along the south side. The County Board’s supplemental information (dated: February 1, 2018), identifies approximately 26 Black Hills Spruce trees along the south side, and an 8-foot high chain-link fence with plastic slats surrounding the entirety of the perimeter of the operational area for security and screening measures.

14. Xcel Energy has conducted and completed an engineering cost estimate and provided an Interconnection Agreement, dated June 23, 2017. Xcel Energy provides the study results to inform the applicant of the engineering indicative cost estimate, where they are located in the interconnection queue, and to identify the maximum generation capacity (in MW) which can be accommodated at the site location. The interconnection location, located to the north of the operational area, would be constructed pursuant to Xcel Energy's standards and would also require a minimum of three (3) utility poles (at the interconnect point).
15. US Solar LLC would take on the responsibility and costs of the decommissioning of the site at the end of the operational life of the CSG as noted in the lease between the property owner and US Solar LLC. Decommissioning would commence after twelve (12) months of non-operation. The project site would be restored to pre-construction conditions after removal of the structures and restoration of soil and vegetation. Fencing would be removed and recycled, the access will be reclaimed and soils replaced where needed. The site could be restored to productive farmland. USS King 2 Solar LLC would be responsible for all costs and would supply a \$15,000 decommissioning fund available to the landowner as well as the County as a letter of credit or escrow if USS King 2 Solar LLC is unable or unwilling to commence decommissioning. The applicant has spelled out the decommissioning process in their operational plan (dated: July 8, 2017) and in the supplemental information (dated: November 13, 2017) including a salvage value and decommissioning budget. The applicants have indicated, in their submitted supplemental statement (dated: November 13, 2017), that they would post \$25,000 for the decommissioning fund.
16. The applicant's operational plan includes acknowledgement of the public's concerns regarding stray voltage and provides additional informational materials. The applicant has also provided additional stray voltage information in their supplemental statement (dated: November 13, 2017) including a letter from Westwood Engineering Electrical Engineering Manager.
17. The applicant has provided contact information for any maintenance and operation questions or concerns in their operational plan (dated: July 8, 2017). The applicant would need to provide a more detailed emergency response plan as well as contractor details pertaining to drainage, weed maintenance, screening, site maintenance, stray voltage, etc. It is understood that many of the subcontractor details are not addressed until a solar company and Xcel Energy have reached the final design plan phase for a project. The applicant would be required to provide signage with referenced contact information to be placed on the security fencing at this entrance to the operational area. All signage posted on site would be in compliance with Chapter 154 – Sign Regulations. Internal signage is required for labeling of electrical equipment to provide safety and support good practices.
18. The applicant has completed a preliminary drainage plan although, a full drainage report would be completed as part of the Stormwater and Pollution Prevention Plan (SWPPP) permit to be reviewed by the CCWMO as part of the stormwater management standards.
19. The Carver County Planning and Water Management Department (CCWMO) and Carver Soil & Water Conservation District (SWCD) would be reviewing the project with respect to the County Water Rules (Chapter 153), and for site stabilization requirements and Best Management Practices (BMP's). The applicant would be required to comply with any/all permitting requirements.
20. The applicant has committed to using pollinator-friendly and native grasses underneath the solar panels and in the surrounding areas. The vegetation would be chosen to reduce stormwater runoff, expand habitat for pollinators, and preserve and improve soils to enhance the surrounding agricultural activity. USS King 2 LLC would control weeds and maintenance throughout the life of the project. Final implementation of the seeding plan shall be subject to review/recommendations by the CCWMO. USS King 2 LLC would need to ensure that ground cover at the site is maintained and mowed.
21. USS King 2 LLC would work with the local road authority (Carver County Public Works) to allow for an access off of County Road 151. The access road would be approximately 15 feet wide with approximately four – eight inches of aggregate material. The applicant would be required to secure an access permit from the road authority.
22. The applicant has indicated that they are committed to meeting Minnesota state requirements for liability insurance

coverage. In their July 8, 2017 operational plan, they identify the insurance coverage requirements. The state guidelines require the Permittee to maintain a comprehensive public liability insurance policy which is written by an insurance carrier and must be authorized by law.

23. The Waconia Town Board reviewed the request during their November 13, 2017, Town Board meeting and recommended **denial** of the request noting the following:
- Visibility from all directions.
 - Underestimated decommissioning.
 - Location of a large commercial business.
24. Neighboring property owners provided public testimony at the Planning Commission meeting (public hearing), on November 21, 2017, and comments were received at the County Board meeting on February 13, 2018, from the general public, the attorney for neighbors, and several neighboring landowners, urging **denial** of the conditional use due to incompatibility of the proposed use with the neighborhood. The area of Waconia Township is unique given there is an adjacent neighborhood (1973 Plat - Carver Country) of 25+ rural residences located together in an area zoned agricultural. The topography is such that adequate screening would be very difficult to achieve. Neighborhood concerns included inadequate site screening, stray voltage concerns, and proximity to many residences. Any oral or written information presented during, and after, the public hearing has been duly considered by the County Board.
25. Pursuant to Section 152.251 REQUIRED FINDINGS of the Carver County Zoning Code, an order for the issuance of a CUP or IUP can be adopted only if all ten (10) Findings of Fact (A-J) can be found as fact. Any conditions imposed by the permit or actions required as part of the order shall be considered in making findings. The request does not meet the required Findings of Fact pursuant to Section 152.251 (B)(H)(I) as follows:
- (B) The conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.**
1. Based on public testimony, and comments received at the Board of Commissioners' meeting on February 13, 2018, the request will be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted including animal agriculture and 25 or more single family homes. The visibility of the solar development would not be adequately screened from adjacent properties.
- (H) The use or development conforms to the County Comprehensive Plan.**
1. Based on testimony and written statements from neighboring property owners, and the Waconia Town Board, the proposed use may create conflicts with the Waconia Township Chapter of the 2030 Comprehensive Plan by utilizing prime agricultural land, further impeding the primary land use as agriculture, and it would conflict with the immediate residential neighborhood.
- (I) The use or development is compatible with the land uses in the neighborhood.**
1. Based on public testimony and comments received at the Board of Commissioners' meeting on February 13, 2018, the solar array would not be compatible with the land uses in the neighborhood, because of concerns regarding stray voltage, it would not be compatible with the adjacent animal agriculture, the proposed solar array cannot be adequately screened from neighboring views, and it may decrease surrounding property values.

THEREFORE, IT IS ORDERED THAT A CONDITIONAL USE PERMIT FOR A LARGE SOLAR ENERGY SYSTEM IS HEREBY DENIED ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A".

Gayle Degler
Carver County Board Chair

Dave Hemze
County Administrator

Carver County Board of Commissioners Request for Board Action



Agenda Item:

USS Hollywood Solar LLC - Large Solar Energy System

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

File #PZ20170033. The Planning Commission has recommended denial of a Conditional Use Permit (CUP) for USS Hollywood Solar LLC (US Solar - Peter Schmitt) for a Large Solar Energy System (Community Solar Garden or CSG) of up to one megawatt (1 MW). The proposed site is owned by the Lowell Baker Limited Partnership (Howard Schwimmer, Trustee), and is located in Section 29 of Hollywood Township. The CSG would be located on approximately 8-9 acres (currently tillable soils) of the 20.85-acre parcel. The remaining acreage would consist of agricultural production land.

Pursuant to the Board's direction at the February 13, 2018 meeting, an Order for denial is attached for consideration.

ACTION REQUESTED:

A motion to adopt Findings of Fact and issue Order #PZ20170033 for the denial of the Conditional Use Permit.

FISCAL IMPACT:

If "Other", specify:

FUNDING

County Dollars =

FTE IMPACT:

Total

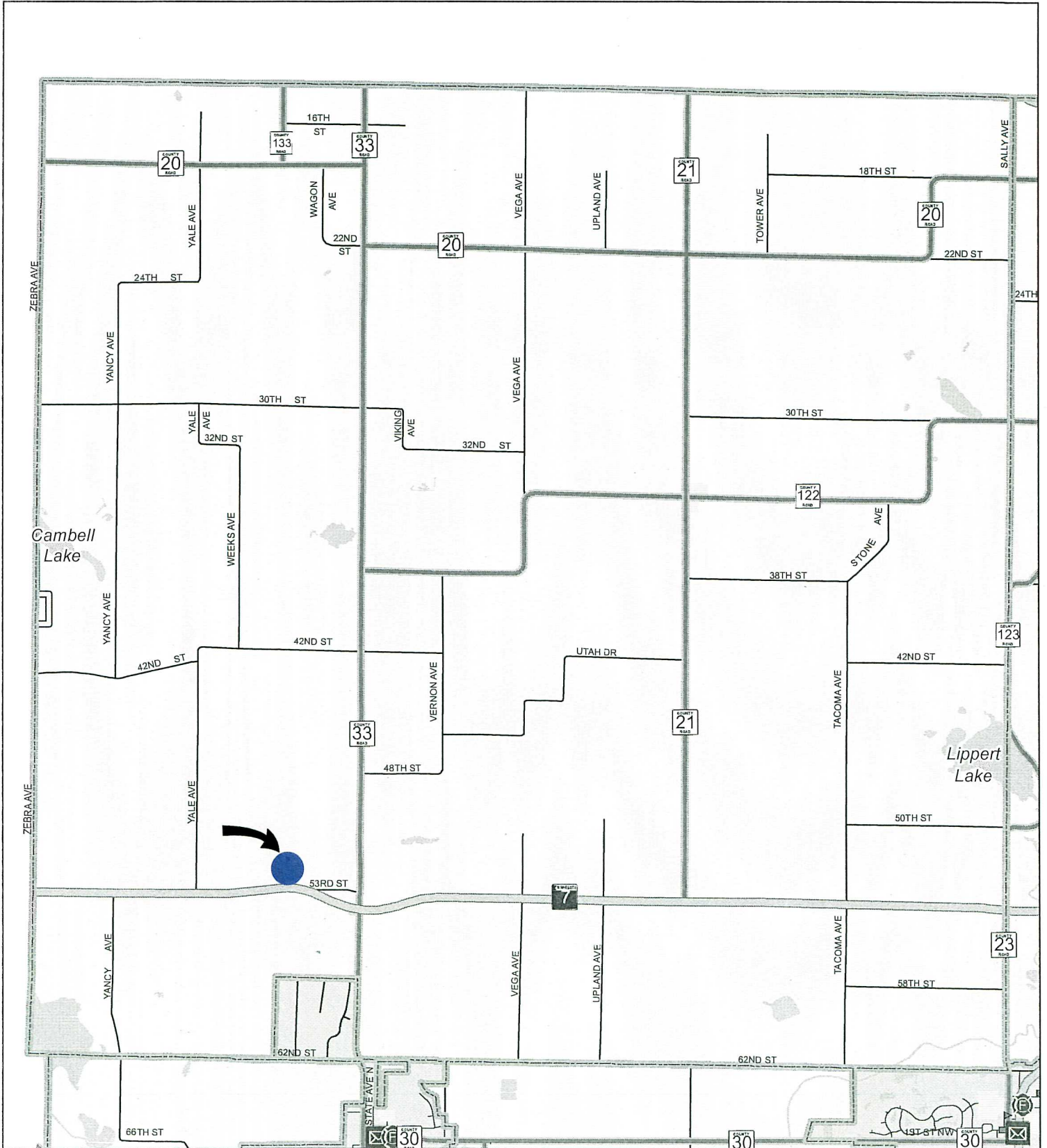
Insert additional funding source

Related Financial/FTE Comments:

Office use only:

RBA 2018 - 5278

HOLLYWOOD TOWNSHIP



This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



Map Created by Carver County GIS

**COUNTY OF CARVER
BOARD OF COMMISSIONERS**

**AN ORDER FINDING CERTAIN FACTS AND ORDERING
THE DENIAL OF A CONDITIONAL USE PERMIT**

DATE: February 27, 2018

ORDER #: PZ20170033

FILE #: PZ20170033

APPLICANT: Peter Schmitt (United States Solar Corporation)
(Site Name: USS Hollywood Solar LLC)

OWNER: Lowell Baker Limited Partnership, LLLP (Howard Schwimmer, Trustee)

SITE ADDRESS: 178XX Hwy 7, New Germany, MN 55367

PERMIT TYPE: Renewable Energy – Large SES

PURSUANT TO: County Code, Section 152.039 (B)(2)(b)
and 152.052

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 06-029-1800

A public hearing was held on this matter on September 19, 2017, by the Carver County Planning Commission, and additional information was heard and submitted at the County Board meeting on February 13, 2018, and all information entered into the public record was duly considered in the issuance of this order.

FINDINGS OF FACT

1. The subject property (approximately 20.85 acres) is owned by the Lowell Baker Limited Partnership (Howard Schwimmer, Trustee), and is located in the SW ¼ of the SE ¼ of Section 29, Hollywood Township. The proposed request is located on approximately 8-9 acres, of the 20.85 acre parcel, consisting of crop production land. It is located in the Agriculture Zoning District and the CCWMO – Crow River watershed.
2. The applicant, USS Hollywood Solar LLC (Peter Schmitt - US Solar), is requesting to construct, operate (by lease), and maintain up to a one (1) megawatt (MW) Community Solar Garden (CSG) as a Renewable Energy (Large – Solar Energy System) – Conditional Use Permit (CUP) on the subject parcel. The request is being proposed as part of Xcel Energy’s Community Solar Garden Program, which was established by the State of Minnesota in 2013. The Energy contract with Xcel Energy for this program is for a minimum of 25 years.
3. The proposed request is considered a Large Solar Energy System (LSES) based on the fact that the current (DC) rate capacity exceeds 100 kilowatts and would produce energy that would be added to Xcel Energy’s existing grid system. A Large SES requires a CUP pursuant to Section 152.039 and 152.052 of the Zoning Code.
4. The Carver County Board of Commissioners approved an ordinance amendment to Zoning Code Section 152.039, Renewable Energy, on July 11, 2017. The applicant’s complete application was submitted and accepted by the Carver County Land Management Department on July 10, 2017; hence, the application has been reviewed against the previous ordinance standards. The applicant requested that the proposal be heard at the September 19, 2017, Planning Commission meeting agenda. The applicant has further extended (waived) the County Board final decision deadline to April 3, 2018, in an email correspondence dated January 5, 2018.
5. The 2030 Carver County Comprehensive Plan identifies a land use summary table (similar to all Township land use tables), which was required by the Metropolitan Council. It is for informational purposes only and it is not a land use policy. Policy LU19 under the Agricultural Policy Area states that “certain other uses of land may be necessary or appropriate in the policy area”. Policy LU-16 under the Agricultural Policy Area states that “undue restrictions on solar access and renewable energy should be avoided”. The use of agricultural land is temporary in nature and the

impervious areas would be minimal. The amount of long term agriculture land utilized for the large SES is small in relation to the total acreage of the Xcel Energy service area. These factors are compatible with the 2030 Comprehensive Plan.

6. The applicant has noted in the operational plan “cover letter” (dated: July 8, 2017) that USS Hollywood Solar LLC has submitted application on behalf of United States Solar Corporation (“US Solar”), a small businesses headquartered out of Minneapolis and responsible for coordinating all projects including, development, permits, finance, construction, management, insurance, maintenance, monitoring, and customer service.
7. The applicant has indicated the site was selected due to its solar resource, physical characteristics (limited grading, no impact to wetlands, neighbors, and soils), proximity and access to high-value 3-phase distribution facilities (on project-side of Hwy 7), applicable zoning and permit requirements, and willingness of the landowner. Lowell Baker and Howard Schwimmer (Trustee) have signed a Purchase Option Agreement for the parcel.
8. The applicant is proposing to construct and operate up to a one (1) megawatt (MW) solar garden on the site. The major equipment components of the solar array include the solar modules, inverters, and racking. The panels would be on single-axis trackers, which rotate from east to west and will be a maximum of 5 feet to 8 feet in height and do not require concrete foundations, therefore; are easily removed during decommissioning. The energy produced on the site would be fed to 40 inverters installed throughout the site which would be enclosed and meeting all applicable codes and standards. From the inverters, energy would be transferred to the interconnection location through underground, medium-voltage cable, to the proposed new utility pole location. The exact panel, array, inverter and electrical interconnection configuration and dimensions may change based on the actual equipment and manufacturer selection. However, the ultimate panel/fencing locations must remain within the approved site plan.
9. According to the applicant, no substantial grading or filling is being proposed in the design of the solar array with the exception of a 15-foot wide unpaved access road. The proposed solar racking is noted to accommodate existing terrain allowing for maintenance of the existing drainage and runoff patterns, minimizing the impact to surrounding lands. Any/all grading will be pursuant to the final engineering design and building permit submittal.
10. Site operations (energy productivity) would be monitored remotely with equipment determined and approved by Xcel Energy. No daily traffic will occur after completion of construction. The CSG would operate 24 hours a day, 365 days a year after the conclusion of construction. Traffic to the site would include one (1) quarterly visit; one (1) vehicles with approximately two (2) authorized employees to perform routine maintenance. During the first few years of operations, a two landscape maintenance employees would visit the site monthly, during the growing season, to ensure landscaping is growing efficiently.
11. USS Hollywood Solar LLC is proposing to drive piles (metal posts) into the ground to support the single-axis tracker racking system. The proposed hours during construction would be 7 a.m. to 7 p.m. on weekdays, as well as Saturdays and Sundays, based on the demands of their construction schedule. The applicant has noted the piles will be installed with noise mitigating, vibrated piles that are anchored into the ground based on structural analysis. The Carver County Zoning Code includes a standard which requires foundation posts to be installed using noise mitigating equipment such as a vibrating post driver or any other noise reduction method as may be stipulated by the CUP, with which the applicant would need to comply.
12. The surrounding properties consist of residential homes and farmsteads. It appears the closest residence is to the southwest of the site, approximately 500 feet from the solar array. Supplemental information including: written narrative, updated site plan, landscape plan and area photographs was provided to the Carver County Board of Commissioners during February 13, 2018, meeting. The updated landscape plan proposes a mix of Techny Arborvitae & Cardinal Dogwood (500+ tree/shrub plantings) for the site (screening). Screening has been proposed on the south, east and west sides of the array to reduce visual impacts from the highway and adjacent properties. The applicant is proposing to install a security fence around the perimeter on the inside of the landscape screening. The fence will not exceed eight (8) feet in height and will be a chain link, or an alternative agricultural type of fence, without barbwire.

13. Xcel Energy has conducted and completed an engineering cost estimate and provided an Interconnection Agreement, dated August 30, 2017. Xcel Energy provides the study results to inform the applicant of the engineering indicative cost estimate, where they are located in the interconnection queue, and to identify the maximum generation capacity (in MW) which can be accommodated at the site location. The interconnection location, located along Hwy 7, would be constructed pursuant to Xcel Energy's standards and would also require a minimum of three (3) utility poles (at the interconnect point).
14. USS Solar LLC would take on the responsibility and costs of the decommissioning of the site at the end of the operational life of the CSG as noted in the lease between the property owner and US Solar LLC. Decommissioning would commence after twelve (12) months of non-operation. The project site would be restored to pre-construction conditions after removal of the structures and restoration of soil and vegetation. USS Hollywood Solar LLC would be responsible for all costs associated with the decommissioning. The applicant has indicated the garden is comprised of multiple recyclable materials including glass, semiconductor material, steel, aluminum, copper, and plastics. Fencing will be removed and recycled and the soils and access will be reclaimed and soils replaced where needed. The site could be restored to productive farmland. A decommissioning fund, in the amount of \$15,000, would be provided as a letter of credit or escrow fund available to the landowner and County in the event USS Hollywood Solar LLC was unable, or unwilling, to decommission the site.
15. The applicant's operational plan includes acknowledgment of the public's concerns regarding stray voltage and provides additional informational materials. Tests would be conducted during construction, permitting inspections, and prior to energization and well as periodically throughout the operation period of the project. These tests would verify whether or not stray voltage is occurring according to the threshold defined by the "MN stray Voltage Guide".
16. The applicant has provided contact information for any maintenance and operations questions or concerns in the operational plan (dated: July 8, 2017). The applicant would need to provide a more detailed emergency response plan which lists local and qualified contractors by contact name and number for the responsible party as it pertains to drainage, weed maintenance, screening, site maintenance, stray voltage, etc. The applicant would need to provide the contact information for any maintenance and emergency issues, which would be required to be posted at the entrance to the site. The signage with referenced information would be placed on the security fencing at the entrance. All signage posted on site would need to be in compliance with Chapter 154 – Sign Regulations. Internal signage would be required, for labeling of electrical equipment, to provide safety and to support good practices.
17. The applicant has completed a preliminary drainage plan; although, a full drainage report would be completed as part of the Stormwater and Pollution Prevention Plan (SWPP) permit to be reviewed by the CCWMO as part of the stormwater management standards.
18. The Carver County Planning and Water Management Department (CCWMO) and Carver Soil & Water Conservation District (SWCD) would be reviewing the project with respect to the County Water Rules (Chapter 153), and for site stabilization requirements and Best Management Practices (BMP's). The applicant would be required to comply with any/all permitting requirements.
19. The applicant has committed to using pollinator-friendly and native grasses underneath the solar panels and in the surrounding areas. The vegetation would be chosen to reduce stormwater runoff, expand habitat for pollinators, and preserve and improve soils to enhance the surrounding agricultural activity. USS Hollywood Solar LLC would control weeds and maintenance throughout the life of the project. Final implementation of the seeding plan would be subject to review/recommendations by the CCWMO. USS Hollywood Solar LLC would ensure ground cover at the site is maintained and mowed.
20. USS Hollywood Solar LLC would need to work with the road authority (MN/DOT) to address an access off of Hwy 7. The access road would be approximately 15 feet wide with approximately four – eight inches of aggregate material. The applicant would be required to secure an access permit from the road authority.

21. The applicant has indicated that they are committed to meeting Minnesota state requirements for liability insurance coverage. In their July 8, 2017 operational plan, they identify the insurance coverage requirements. The state guidelines require the Permittee to maintain a comprehensive public liability insurance policy which is written by an insurance carrier and must be authorized by law.
22. Testimony was received at the September 19, 2017, Planning Commission meeting, and comments were received at the Board of Commissioners' meeting on February 13, 2018, from the general public, the attorney for neighbors, and several neighboring landowners urging **denial** of the conditional use due to incompatibility of the proposed use with the 2030 Comprehensive Plan, potential for negative impacts on property values, Hwy 7 access safety concerns, stray voltage concerns, and incompatibility with the existing residential neighborhood and a church. Any oral or written information presented during, and after, the public hearing has been duly considered by the County Board.
23. The Hollywood Town Board reviewed the request during their August 14th and September 11th (2017) Town Board meetings, and has recommended **denial**. The Town Board submitted a letter providing justification(s) for the recommendation, including: incompatibility with the neighborhood; landscape plan is insufficient; and inconsistencies with the Township's chapter of the 2030 Comprehensive Plan.
24. Pursuant to Section 152.251 REQUIRED FINDINGS of the Carver County Zoning Code, an order for the issuance of a CUP or IUP can be adopted only if all ten (10) Findings of Fact (A-J) can be found as fact. Any conditions imposed by the permit or actions required as part of the order shall be considered in making findings. The request does not meet the required Findings of Fact pursuant to Section 152.251 (B)(D)(E)(H)(I) as follows:

(B) The conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

1. Based on public testimony, the Hollywood Town Board recommendation, and comments received at the Board of Commissioners' meeting on February 13, 2018, the request "will" be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted including agriculture, residential homes, and farms (approx. 500 feet from the nearest residence, and numerous homes in the area as well as a church).

(D) The effects of the proposed use will not be detrimental to the health, safety and welfare of Carver County or to the occupants of the immediate neighborhood.

1. The applicant has not submitted an adequate or clear plan for mitigating the potential for stray voltage if there ever became a problem. Therefore, the applicant would not be able to guarantee that the CSG would not be detrimental to the neighborhood.

(E) The adequate utilities, access roads, drainage and other facilities have been or are being provided.

1. Based on public testimony and comments received at the Board of Commissioners meeting on February 13, 2018, neighboring property owners, in close proximity to the access location, indicate that safety and traffic concerns would exist with the construction of any access improvements to service the property on Hwy 7.

(H) The use or development conforms to the County Comprehensive Plan.

1. Based on testimony from Hollywood Township officials, and the written recommendation from Hollywood Township included in the September 19, 2017, Planning Commission request packet; the use is inconsistent with the Township Chapter of the 2030 Comprehensive Plan "Agricultural Policy Area". The Town Board has stated that "agriculture will continue to be the primary land use and economic base of the township", and "taking large areas of land out of agricultural production will have a negative impact on the township and its economic base".

(I) The use or development is compatible with the land uses in the neighborhood.

1. Based on public and Town Board testimony, and the written recommendation from Hollywood Township included in the September 19, 2017, Planning Commission request packet, the proposed use would not be compatible with the adjacent land uses, and it “will” decrease surrounding property values.
2. The Hollywood Town Board letter which was included in the September 19, 2017, Planning Commission request packet, states that “the proposed location is just on the edge of the Hollywood Station Rural Service District (RSD); therefore, the area has a higher density of houses than most areas of the Township, thus being incompatible with the neighborhood.
3. The site consists of very good (prime) crop production land, which would not be a practical location for a large CSG. The proposed solar array operational area would drastically reduce the potential for the remaining agricultural production land to remain in crop production due to the cutting up of the approximate 20.85-acre farm field.
4. Based on public testimony and a signed petition received from neighboring property owners, at the February 13, 2018, County Board meeting, the proposed use would take away from the rural and natural surrounding environment of the neighborhood.

THEREFORE, IT IS ORDERED THAT A CONDITIONAL USE PERMIT FOR A LARGE SOLAR ENERGY SYSTEM IS HEREBY DENIED ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT “A”.

Gayle Degler
Carver County Board Chair

Dave Hemze
County Administrator

Carver County Board of Commissioners Request for Board Action



Agenda Item:

USS Hancock Solar LLC - Large Solar Energy System

Primary Originating Division/Dept:

Meeting Date:

Contact: Title:

Item Type:

Amount of Time Requested: minutes

Attachments: Yes No

Presenter: Title:

Strategic Initiative:

BACKGROUND/JUSTIFICATION:

File #PZ20170035. The Planning Commission has recommended denial of a Conditional Use Permit (CUP) for USS Hancock Solar LLC (US Solar - Peter Schmitt) for a Large Solar Energy System (Community Solar Garden or CSG) of up to one megawatt (1 MW). The proposed site is owned by Wayne and Arlys Panning, and is located in Section 1 of Hancock Township. The CSG would be located on approximately 8-9 acres (currently vegetated pasture area) of the 24.26-acre parcel. The remaining acreage would consist of a pasture area for sheep. The Panning's building site (house & accessory structures) is located to the north of the proposed solar site on an adjacent 5.74-acre parcel.

Pursuant to the Board's direction at the February 13, 2018 meeting, an Order for denial is attached for consideration.

ACTION REQUESTED:

A motion to adopt Findings of Fact and issue Order #PZ20170035 for the denial of the Conditional Use Permit.

FISCAL IMPACT:

If "Other", specify:

FUNDING

County Dollars =

FTE IMPACT:

Total

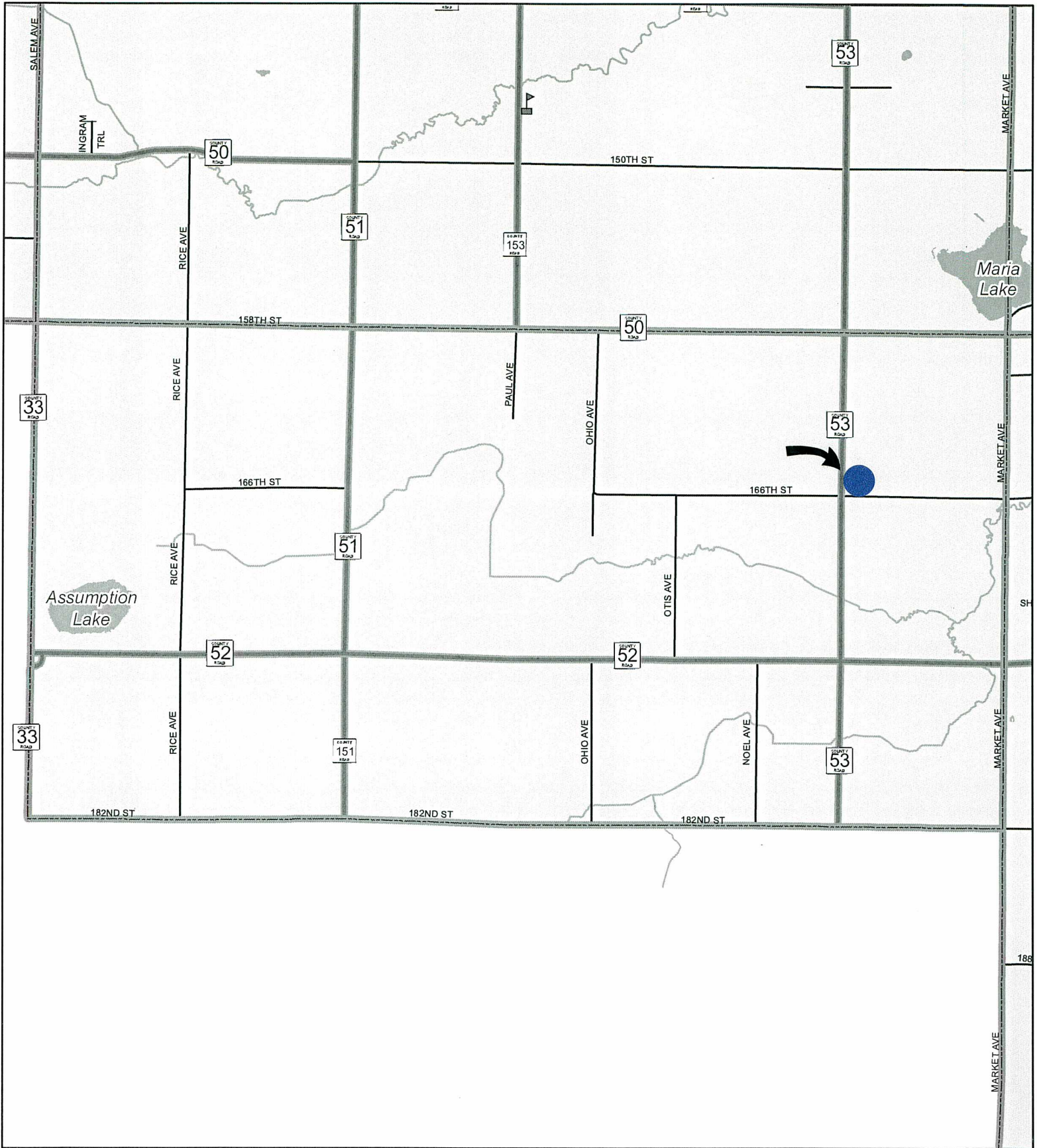
Insert additional funding source

Related Financial/FTE Comments:

Office use only:

RBA 2018 - 5277

HANCOCK TOWNSHIP



This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



**COUNTY OF CARVER
BOARD OF COMMISSIONERS**

**AN ORDER FINDING CERTAIN FACTS AND ORDERING
THE DENIAL OF A CONDITIONAL USE PERMIT**

DATE: February 27, 2018

ORDER #: PZ20170035

FILE #: PZ20170035

APPLICANT: Peter Schmitt (United States Solar Corporation)
(Site Name: Hancock Solar LLC)

OWNER: Wayne & Arlys Panning

SITE ADDRESS: 165XX Co. Rd. 53, Hancock Township

PERMIT TYPE: Renewable Energy – Large SES

PURSUANT TO: County Code, Section 152.039 (B)(2)(b)
and 152.052

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 05-001-1711

A public hearing was held on this matter on August 15, 2017, by the Carver County Planning Commission, and additional information was heard and submitted at the County Board meeting on February 13, 2018, and all information entered into the public record was duly considered in the issuance of this order.

FINDINGS OF FACT

1. The subject property (approximately 24.26 acres) is owned by Wayne and Arlys Panning and is located in the SW ¼ of the SW ¼ Section 1, Hancock Township. The proposed request is located on approximately 8-9 acres of the 24.26 acre parcel consisting of vegetated pasture land located in the Agriculture Zoning District and the CCWMO – Bevens Creek watershed.
2. The applicant, US, Solar, USS Hancock Solar LLC (Peter Schmitt), is requesting to construct, operate (by lease), and maintain up to a one (1) megawatt (MW) Community Solar Garden (CSG), as a Renewable Energy (Large – Solar Energy System) – Conditional Use Permit (CUP), on the subject parcel. The request is being proposed as part of Xcel Energy’s Community Solar Garden Program, which was established by the State of Minnesota in 2013. The Energy contract with Xcel Energy for this program is for a minimum of 25 years.
3. The proposed request is considered a Large Solar Energy System (LSES) based on the fact that the current (DC) rate capacity exceeds 100 kilowatts and would produce energy that would be added to Xcel Energy’s existing grid system. A Large SES requires a CUP pursuant to Section 152.039 and 152.052 of the Zoning Code.
4. The Carver County Board of Commissioners approved an ordinance amendment to Zoning Code section, 150.039 Renewable Energy, on July 11, 2017. The applicant’s complete application was submitted and accepted to the Carver County Land Management Department on July 10, 2017, therefore; the application has been reviewed against the previous ordinance standards.
5. The 2030 Carver County Comprehensive Plan identifies a land use summary table (similar to all Township land use tables), which was required by the Metropolitan Council. It is for informational purposes only and it is not a land use policy. Policy LU19 under the Agricultural Policy Area states that “certain other uses of land may be necessary or appropriate in the policy area”. Policy LU-16 under the Agricultural Policy Area states that “undue restrictions on solar access and renewable energy should be avoided”. The use of agricultural land is temporary in nature and the impervious areas would be minimal. The amount of long term agriculture land utilized for the large SES is small in relation to the total acreage of the Xcel Energy service area. These factors are compatible with the 2030 Comprehensive Plan.

6. The applicant has noted in their operational plan “cover letter” (dated: July 10, 2017) that USS Hancock Solar LLC has submitted application on behalf of United States Solar Corporation (“US Solar”), a small businesses headquartered out of Minneapolis and responsible for coordinating all projects including, development, permits, finance, construction, management, insurance, maintenance, monitoring, and customer service.
7. The applicant has indicated the site was selected due to its solar resource, physical characteristics (limited grading, no impact to wetlands, neighbors, and soils), proximity and access to 3-phase distribution facilities (on project-side of Co. Rd 53), applicable zoning and permit requirements, and willingness of the landowner. Mr. and Mrs. Panning have entered into a minimum 25 year lease agreement with USS Hancock Solar LLC.
8. The applicant is proposing to construct and operate (by lease) up to a one (1) megawatt (MW) solar garden on the site. The major equipment components of the solar array include the solar modules, inverters, and racking. The panels would be on single-axis trackers, which rotate from east to west and will be a maximum of 10 feet in height and do not require concrete foundations, therefore; are easily removed during decommissioning. The energy produced on the site would be fed to 40 inverters installed throughout the site which would be enclosed and meeting all applicable codes and standards. From the inverters, energy would be transferred to the interconnection location through underground, medium-voltage cable, to the proposed new utility pole location. The exact panel, array, inverter and electrical interconnection configuration and dimensions may change based on the actual equipment and manufacturer selection. However, the ultimate panel/fencing locations must remain within the approved site plan.
9. According to the applicant, no substantial grading or filling is being proposed in the design of the solar array with the exception of a 15-foot wide unpaved access road. The proposed solar racking is noted to accommodate existing terrain, allowing for maintenance of the existing drainage and runoff patterns and minimizing the impact to surrounding lands. Any/all grading will be pursuant to the final engineering design and building permit submittal.
10. Site operations (energy productivity) would be monitored remotely with equipment determined and approved by Xcel Energy. No daily traffic will occur after completion of construction. The CSG would operate 24 hours a day, 365 days a year after the conclusion of construction. Traffic to the site would include one (1) quarterly visit; one (1) vehicles with approximately two (2) authorized employees to perform routine maintenance. During the first two (2) years of operations, a landscape crew would visit the site monthly, during the growing season, to ensure landscaping is growing efficiently.
11. USS Hancock Solar LLC is proposing to drive piles (metal posts) into the ground to support the single-axis tracker racking system. The applicant has noted the piles will be installed with noise mitigating, vibrated piles that are anchored into the ground based on structural analysis. The Carver County Zoning Code includes a standard which requires foundation posts to be installed using noise mitigating equipment such as a vibrating post driver or any other noise reduction method as may be stipulated by the CUP, with which the applicant would need to comply.
12. The surrounding properties consist of residential homes and farmsteads. Supplemental information, including written narrative, updated site plan, landscape plan and area photographs, was provided to the Carver County Board of Commissioners during the February 13, 2018, meeting. The updated landscape plan proposes a mix of Techny Arborvitae & Cardinal Dogwood (500+ tree/shrub plantings) for the site (screening). It appears the closest feedlot (newer dairy operation) is to the east, located off of 166th street, is approximately 1,017± feet from the solar array. Screening has been proposed on the south, east and west sides of the array to reduce visual impacts from Co. Rd. 53, 166th Street, as well as the neighboring property to the east. However, the topography is such that landowners to the south would likely be able to see the facility. The proposed operational area is enclosed with an existing picket fence. The applicant is proposing to install an additional security fence around the perimeter on the inside of the landscape screening. The fence would not exceed eight (8) feet in height and would be chain-link.

13. Xcel Energy has conducted and completed an engineering cost estimate and provided an Interconnection Agreement, dated June 27, 2017. Xcel Energy provides the study results to inform the applicant of the engineering indicative cost estimate, where they are located in the interconnection queue, and to identify the maximum generation capacity (in MW) which can be accommodated at the site location. The interconnection location, located along Co. Rd. 53, would be constructed pursuant to Xcel Energy's standards, and would also require a minimum of three (3) utility poles (at the interconnect point).
14. US Solar LLC would take on the responsibility and costs of the decommissioning of the site at the end of the operational life of the CSG as noted in the lease between the property owner and US Solar LLC. Decommissioning would commence after twelve (12) months of non-operation. The project site would be restored to pre-construction conditions after removal of the structures and restoration of soil and vegetation. USS Hancock Solar LLC would be responsible for all costs associated with the decommissioning. The applicant has indicated the garden is comprised of multiple recyclable materials including glass, semiconductor material, steel, aluminum, copper, and plastics. Fencing will be removed and recycled and the soils and access will be reclaimed and soils replaced where needed. The site could be restored to productive farmland. A decommissioning fund, in the amount of \$15,000, would be provided as a letter of credit or escrow fund available to the landowner and County in the event USS Hancock Solar LLC is unable or unwilling to decommission the site. Testimony was received, which questioned the accuracy of future decommissioning costs and adequacy of proposed funding.
15. The applicant's operational plan includes acknowledgment of the public's concerns regarding stray voltage and provides additional informational materials. Tests would be conducted during construction, permitting inspections, and prior to energization and well as periodically throughout the operation period of the project. These tests would verify whether or not stray voltage is occurring according to the threshold defined by the "MN Stray Voltage Guide". Concerns remain regarding the potential for stray voltage, as it relates to potential negative impacts on an adjacent dairy operation(s).
16. The applicant has provided contact information for any maintenance and operations questions or concerns in their operational plan (dated: July 10, 2017). The applicant would need to provide a more detailed emergency response plan which lists local and qualified contractors by contact name and number for the responsible party as it pertains to drainage, weed maintenance, screening, site maintenance, stray voltage, etc. Many of the site subcontractor details are not addressed until a solar company and Xcel Energy have reached the final design plan phase for a project. The signage, with referenced information, would need to be placed on the security fencing near the site's entrance. All signage posted on site would need to be in compliance with Chapter 154 – Sign Regulations. Internal signage would be required for labeling of electrical equipment to provide safety and support good practices.
17. The applicant has completed a preliminary drainage plan although, a full drainage report would be completed as part of the Stormwater and Pollution Prevention Plan (SWPP) permit to be reviewed by the CCWMO as part of their stormwater management standards. A condition should be placed on a permit request(s) which states, "The permittee shall be responsible for the maintenance and/or replacement of any/all drain tile servicing this site (if problems occur) for the duration of the CUP".
18. The Carver County Planning and Water Management Department (CCWMO) and Carver Soil & Water Conservation District (SWCD) would be reviewing the project with respect to the County Water Rules (Chapter 153), and for site stabilization requirements and Best Management Practices (BMP's). The applicant would be required to comply with any/all permitting requirements.
19. The applicant has committed to using pollinator-friendly and native grasses underneath the solar panels and in the surrounding areas. The vegetation would be chosen to reduce stormwater runoff, expand habitat for pollinators, and preserve and improve soils to enhance the surrounding agricultural activity. USS Hancock Solar LLC states that they would control weeds and maintenance throughout the life of the project. Final implementation of the seeding plan would be subject to review/recommendations by the CCWMO. USS Hancock Solar LLC would ensure ground cover at the site is maintained and mowed.

20. USS Hancock Solar LLC would need to work with the local road authority (Carver County Public Works) to allow for an access off of Co. Rd. 53. The access road would be approximately 15 feet wide (or more) with approximately four – eight inches of aggregate material. The applicant would be required to secure and access permit/agreement from the road authority.
21. The applicant has indicated that they are committed to meeting Minnesota state requirements for liability insurance coverage. In the July 10, 2017 operational plan, they identify the insurance coverage requirements. The state guidelines require the Permittee to maintain a comprehensive public liability insurance policy, which is written by an insurance carrier and must be authorized by law.
22. Neighboring property owners provided public testimony at the Planning Commission meeting (public hearing), on August 15, 2017, and comments were received at the County Board meeting on February 13, 2018, from the neighboring property owners regarding the impact stray voltage may have on their new dairy operation. US Solar also read two (2) letters of support from the property owners, Arlys Panning and Wayne Panning, who were unable to attend the February 13, 2018, County Board meeting. Any oral or written information presented during, and after, the public hearing has been duly considered by the County Board.
23. The Hancock Town Board reviewed the request during their July 24, 2017, Town Board meeting and provided no recommendation with the comment, “We prefer to stay agriculture”, and that they would comment on the request at the Planning Commission hearing. Subsequent to the Town Board meeting, Richard Olson (Town Board Chair) submitted a letter outlining several concerns (dated: August 1, 2017), including:
- Access should be proposed off of Co Rd 53 rather than the Township road.
 - Stray voltage and glare are concerns for neighboring properties.
 - Long term loss of prime ag land.
 - Concerned about who will maintain the vegetation after construction.
24. Pursuant to Section 152.251 REQUIRED FINDINGS of the Carver County Zoning Code, an order for the issuance of a CUP or IUP can be adopted only if all ten (10) Findings of Fact (A-J) can be found as fact. Any conditions imposed by the permit or actions required as part of the order shall be considered in making findings. The request does not meet the required Findings of Fact pursuant to Section 152.251 (B)(I) as follows:
- (B) The conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.**
1. Based on public testimony, and comments received at the Board of Commissioners’ meeting on February 13, 2018, the request will be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted including animal agriculture, residences, and farms.
- (I) The use or development is compatible with the land uses in the neighborhood.**
1. Based on public testimony, and comments received at the Board of Commissioners’ meeting on February 13, 2018, with regard to the potential for stray voltage, the proposed use would not be compatible with the adjacent dairy operation, and it may decrease surrounding property values.

THEREFORE, IT IS ORDERED THAT A CONDITIONAL USE PERMIT FOR A LARGE SOLAR ENERGY SYSTEM IS HEREBY DENIED ON PROPERTY LEGALLY DESCRIBED IN EXHIBIT “A”.

Gayle Degler
Carver County Board Chair

Dave Hemze
County Administrator