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# **Le Sueur County, MN**

**Tuesday, May 3, 2016**

**Board Meeting**

## **Item 3**

**9:10 a.m. Kathy Brockway, Zoning Administrator (5 minutes)**

*RFA - 2 Conditional Use Permits, Le Sun LLC, Fox*

Staff Contact: Kathy Brockway - Environmental and P & Z Director

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**  
**88 SOUTH PARK AVE.**  
**LE CENTER, MINNESOTA 56057**  
**April 14, 2016**

**MEMBERS PRESENT:** Don Reak, Jeanne Doheny, Don Rynda, Shirley Katzenmeyer, Steve Olson, Doug Krenik, Al Gehrke, Betty Bruzek, Pam Tietz

**MEMBERS ABSENT:** Chuck Retka

**OTHERS PRESENT:** Kathy Brockway, Commissioners Connolly, and Rohlfling

The meeting was called to order at 7:00 P.M. by Chairperson, Jeanne Doheny.

**ITEM #1: LE SUN LLC, MINNEAPOLIS, MN (APPLICANT); PATRICK GREGOR, WATERVILLE MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant grading, excavating and filling of approximately 49,227 cubic yards of material for the purposes of site preparation for a solar garden construction in an Agriculture "A" District. Property is located in the SE 1/4, Section 26, Waterville Township.

Kathy Brockway presented power point presentation. Will Cooksey, LeSun LLC, representative, Noah Waterhouse and Kathy Melody, EVS (Engineering Firm), were present for application.

**TOWNSHIP:** WatervilleTownship notified through the application process. **DNR:** N/A  
**LETTERS:** none

**PUBLIC COMMENT:** Fritz Cummins, property owner to the south, questioned amount of material movement without moving the terraces; concerned with rerouting the water to the wetland, wetland farmed in the late 80's, drain tiles to the west, tile intakes in the terraces, does not want more water directed to the wetland.

LeSun LLC, representative, stormwater calculated, worked with the MPCA in regards to their stormwater plans, approved by the MPCA, converting Ag land to grass will reduce the runoff, infiltration trenches installed, grasses established within 1 month

Shirley Katzenmeyer, questioned whether the applicants worked with the SWCD office. They have maps of drain tile for the landowners.

Staff- SWCD was notified and received packets, no comments received.

Jeanne Doheny- questioned whether they could run a model of where and how much water prior to construction and run another one after construction, time frame?

LeSun LLC, representative, stated it would take approximately 1 week, no guarantees, standard practice.

Pam Tietz, questioned Fritz Cummins on whether he receives additional water on his property at this time.

Fritz Cummins stated that the tiles are currently working, does not receive water from the upper terrace.

Doug Krenik, questioned the overflow from the wetland.

Dean Thrun, Cemetery Board, stated that there is tiles going thru the cemetery as well, older members remember the days of pumping water from the cemetery, concerned with tiles not working, portion of the cemetery continues to be farmed.

Jeanne Doheny, questioned the removal of existing tiles.

LeSun LLC, representative stated they are not removing the current tiles, just changing the slope to 10%. They indicated that they are rerouting the water, utilizing infiltration trenches, and they are relying on the landowner as to the location of the existing tiles. Stormwater Plan has been approved by the MPCA.

Jeanne Doheny, questioned the time frame for the project.

LeSun LLC, if plan approved sometime this summer.

Tom Mariska, member of Holy Trinity Church, questioned whether LeSun LLC, could plant 8' trees along the property line to screen the site from the cemetery and to work with the church during construction if a burial is in progress.

Jeanne Doheny, that is between the church board and the cemetery. PZ Commission is considering the grading and excavating, use of property has been established.

Don Reak, questioned number of burials per year.

Tom Mariska, last year 15-20.

Al Gehrke questioned the tree placement.

Cemetery Board could plant trees along their property lines.

Fritz Cummins, would like to see the project go through with a possible condition that a berm is constructed along the wetland.

LeSun LLC, indicated that they are willing to have a condition that they will not negatively impact the property and if so, the necessary corrective measures will be taken.

Al Gehrke indicated that landowners will be surprised at the outcome of the project once completed, drainage on the property could be somewhat compared to CRP ground.

Discussion was held regarding: promoting better drainage at the site, reduce amount of runoff, protect drain tile for future use, tile locations, reduce slopes for construction of racking system, compacted materials, planting of native grasses, root structure year around, MN DOT recommendations, time frame for grading and excavating project, 3-4 weeks from start to finish depending on weather, Order of operations, mass grading, building of subgrade, compaction, equipment pads, gravel roads, planting of native grasses, stabilized at 70% before installation of panels, erosion control measures in place until vegetation is established, explained the infiltration trenches, infiltration trenches are permanent, 2 existing terraces, intention is to leave in place, limited information on the tile system, field verification of tile system and will produce new map, 25 year lease with Xcel Energy, conditional use permit goes with the land.

Findings by majority roll call vote:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.**
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
- 3. Adequate utilities, access roads, drainage and other facilities are being provided.**
- 4. Adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use.**
- 5. Adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.**

Motion was made by Don Reak to approve the application with the following conditions:

- Obtain all necessary County, State and Federal Permits;
  - Continued use of the existing drain tiles within the terraces;
  - Run drainage models prior to construction and after construction;
  - Provide documentation to the County that the drainage will not negatively impact the adjacent properties and if this should occur, necessary corrective measures will be taken.
- Seconded by Al Gehrke. Motion approved. Motion carried.

**ITEM #2: CHUCK & MELISSA FOX, SHAKOPEE, MN, (APPLICANT\OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct stairs in the bluff to include grading, excavating, and filling of approximately 2 cubic yards in the bluff in a Recreational Residential "RR"

District, on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 3, Irish Subdivision No. 1, Section 6, Elysian Township.

Kathy Brockway presented power point presentation. Chuck Fox was present for application.

TOWNSHIP: Elysian Township notified through the application process. DNR: no comments  
LETTERS: none

PUBLIC COMMENT: none

Discussion was held regarding: replace the existing steps in order to provide a safer access to the lake, construct the landings first, erosion control methods, protect the area, aluminum steps, tan in color.

Findings by majority roll call vote:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.**
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
- 3. Adequate utilities, access roads, drainage and other facilities are being provided.**
- 4. Adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.**

Motion was made by Doug Krenik to approve the application as written. Seconded by Betty Bruzek. Motion approved. Motion carried.

Motion was made by Pam Tietz to approve the minutes from the March 10, 2016 meeting. Seconded by Don Rynda. Motion approved. Motion carried.

Motion to adjourn meeting by Don Reak. Seconded by Pam Tietz. Motion approved. Motion carried. Meeting Adjourned.

Respectfully submitted,  
Shirley Katzenmeyer  
By: Kathy Brockway

***Tape of meeting is on file in the  
Le Sueur County Environmental Services Office***

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**  
**May 3, 2016**

**TO: LE SUEUR COUNTY BOARD OF COMMISSIONERS**

**FROM: LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**

**SUBJECT: "REQUEST FOR ACTION"**

The Planning Commission recommends your action on the following items:

**ITEM #1: LE SUN LLC, MINNEAPOLIS, MN (APPLICANT); PATRICK GREGOR, WATERVILLE MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant grading, excavating and filling of approximately 49,227 cubic yards of material for the purposes of site preparation for a solar garden construction in an Agriculture "A" District. Property is located in the SE 1/4, Section 26, Waterville Township.

**Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the following findings for this request:**

Therefore, the Planning Commission recommends approval of the application with the following conditions:

- ***Obtain all necessary County, State and Federal Permits;***
- ***Continued use of the existing drain tiles within the terraces;***
- ***Run drainage models prior to construction and after construction;***
- ***Provide documentation to the County, that the drainage will not negatively impact the adjacent properties and if this should occur, necessary corrective measures will be taken.***

**ITEM #2: CHUCK & MELISSA FOX, SHAKOPEE, MN, (APPLICANT\OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct stairs in the bluff to include grading, excavating, and filling of approximately 2 cubic yards in the bluff in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 3, Irish Subdivision No. 1, Section 6, Elysian Township.

**Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the following findings for this request:**

Therefore, the Planning Commission recommends approval of the application as requested.

ACTION: ITEM #1: \_\_\_\_\_

ITEM #2: \_\_\_\_\_

DATE: \_\_\_\_\_

COUNTY ADMINISTRATOR'S SIGNATURE: \_\_\_\_\_

## FINDINGS OF FACT

**WHEREAS, LE SUN LLC, MINNEAPOLIS, MN (APPLICANT); PATRICK GREGOR, WATERVILLE MN, (OWNER):** has applied for a Conditional Use Permit to allow the applicant grading, excavating and filling of approximately 49,227 cubic yards of material for the purposes of site preparation for a solar garden construction in an Agriculture "A" District. Property is located in the SE 1/4, Section 26, Waterville Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on April 14, 2016, in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends approval of the application due to the following findings:

1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Adequate utilities, access roads, drainage and other facilities are being provided.
4. Adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. Adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

**WHEREAS,** On May 3, 2016, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **approved/denied** the Conditional Use Permit application as requested by LeSun LLC.

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the May 3, 2016, Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

1. With the imposition of appropriate conditions as stated, the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.
2. With the imposition of appropriate conditions as stated, the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. With the imposition of appropriate conditions as stated, adequate utilities, access roads, drainage and other facilities are being provided.
4. With the imposition of appropriate conditions as stated, adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. With the imposition of appropriate conditions as stated, adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

**BE IT FURTHER RESOLVED,** by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit to allow the grading, excavating and filling of approximately 49,227 cubic yards of material for the purposes of site preparation for a solar garden construction in an Agriculture "A" District. Property is located in the SE 1/4, Section 26, Waterville Township is **approved/denied**.

ATTEST:

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John King, Chairman, Le Sueur County Board of Commissioners.

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Darrell Pettis, Le Sueur County Administrator

DATE: \_\_\_\_\_

## FINDINGS OF FACT

**WHEREAS, CHUCK & MELISSA FOX, SHAKOPEE, MN, (APPLICANT\OWNER** has applied for a Conditional Use Permit to construct stairs in the bluff to include grading, excavating, and filling of approximately 2 cubic yards in the bluff in a Recreational Residential “RR” District, on a Recreational Development “RD” lake, Lake Jefferson. Property is located at Lot 3, Irish Subdivision No. 1, Section 6, Elysian Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on April 14, 2016, in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends approval of the application due to the following findings:

1. **The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.**
2. **The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
3. **Adequate utilities, access roads, drainage and other facilities are being provided.**
4. **Adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.**

**WHEREAS,** On May 3, 2016, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **approved/denied** the Conditional Use Permit application as requested by Charles Fox.

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the May 3, 2016, Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

1. **The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.**
2. **The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**
3. **Adequate utilities, access roads, drainage and other facilities are being provided.**
4. **Adequate measures will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.**

**BE IT FURTHER RESOLVED,** by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit to allow the applicant to construct stairs in the bluff to include grading, excavating, and filling of approximately 2 cubic yards in the bluff in a Recreational Residential “RR” District, on a Recreational Development “RD” lake, Lake Jefferson. Property is located at Lot 3, Irish Subdivision No. 1, Section 6, Elysian Township is **approved/denied**.

ATTEST:

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John King, Chairman, Le Sueur County Board of Commissioners.

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Darrell Pettis, Le Sueur County Administrator

DATE: \_\_\_\_\_