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# Le Sueur County, MN

Tuesday, June 28, 2016

Board Meeting

## Item 4

**9:35 a.m. Kathy Brockway, P & Z Adm. (15 minutes)**

*RE: 2-Requests for Action*

*RE: Resolution- Grannie Pods*

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

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**  
**88 SOUTH PARK AVE.**  
**LE CENTER, MINNESOTA 56057**  
**June 09, 2016**

**MEMBERS PRESENT:** Jeanne Doheny, Don Rynda, Chuck Retka, Shirley Katzenmeyer, Steve Olson, Al Gehrke, Betty Bruzek, Pam Tietz

**MEMBERS ABSENT:** Don Reak, Doug Krenik

**OTHERS PRESENT:** Kathy Brockway, Commissioner Connolly

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

**ITEM #1: SOCORE RED MAPLE LLC, CHICAGO, IL, (APPLICANT); KATHLEEN REGENSCHEID REVOCABLE TRUST, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in the Conservancy "C" and Agriculture "A" Districts and the Special Protection "SP" District, on an unnamed stream. Property is located in the NW 1/4 SE 1/4, Section 24, Kasota Township.

Kathy Brockway presented power point presentation. Andrew Dahlen, representing Socore Red Maple LLC, was present for application.

TOWNSHIP: Notification through the application process. DNR: No comments. LETTERS: No comments.

PUBLIC COMMENT: No comments

Discussion was held regarding: history of Socore, installation of over 300 solar gardens within 17 states, 2 roof top installations in Minnesota, in the process of working with other counties in Minnesota, flat site, no additional grading and filling, concern with taking the most productive farmland out of production to allow solar gardens, no standards in the ordinance, interconnection agreements, Xcel Energy standards to meet renewable energy guidelines, fire protection, fencing, screening, vegetation, maintenance of the site, decommissioning plan, time frame, security, lighting.

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. Agreed.*
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. Agreed.*
3. *Adequate utilities, access roads, drainage and other facilities are being provided. Agreed.*
4. *Adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Agreed.*
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. Agreed.*
6. *Is the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance? Agreed (5-3)*

7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan? Disagree as renewable energy is not addressed in the 2009 Comprehensive Land Use Plan.*

Motion was made by Steve Olson to approve the application with the following conditions:

- A 7' fence with 3 strands of barbed wire for a total fence height of 8'.
- Decommissioning Bond as set by the County Commissioners.

Seconded by Pam Tietz. Motion approved. Motion carried.

**ITEM #2: LYRA COMMUNITY SOLAR GARDEN, EDINA, MN, (APPLICANT); LARRY & SOLVEIG THEIS, SHAKOPEE, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in a Special Protection "SP" District, on a Natural Environment "NE" lake, Querum's Slough. Property is located in the SW 1/4 SW 1/4, Section 10, Waterville Township.

Kathy Brockway presented power point presentation. Patrick Smith, representing Lyra Community Solar Garden, was present for application.

TOWNSHIP: Notification through the application process. Al Gehrke, Township Representative stated that the township has no objections to the proposal. DNR: No Comments LETTERS: Joshua Mankowski, LSC Resource Specialist. Letter read into record (see file).

Discussion was held regarding: agricultural land out of production, vegetation management, requested to deviate from the setbacks, re-worked plans, meets all required setbacks, fencing(woven type material with strands of barbed wire), height of fence, stray voltage, archeological study provided to the State, turn around, impervious surface, decommissioning plan, wetland delineation of the site, approved by the SWCD.

PUBLIC COMMENT: Larry Theis, current landowner, site is marginal farm ground, better use of the land, native plantings better filter for the slough.

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. Agreed.*
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. Agreed.*
3. *Adequate utilities, access roads, drainage and other facilities are being provided. Agreed.*
4. *Adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Agreed.*
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. Agreed.*
6. *Is the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance? Agreed (7-1).*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan? Disagree 5-3 as renewable energy is not addressed in the 2009 Comprehensive Land Use Plan.*

Motion was made by Al Gehrke to approve the application with the following condition:

- Decommissioning Bond as set by the County Commissioners.  
Seconded by Don Rynda. Motion approved 7-1. Descending vote: Inconsistent with conditions.  
Motion carried.

Discussion: Workshop set up for June 23, 2016 at 4:00 PM to discuss Ordinance Revision to include standards for solar energy.

Motion was made by Pam Tietz to approve the minutes from the April 14, 2016 meeting. Seconded by Betty Bruzek. Motion approved. Motion carried.

Motion was made by May 19, 2016 to approve the minutes from the May 19, 2016 special meeting by Seconded by Shirley Katzenmeyer. Seconded by Steve Olson. Motion approved. Motion carried.

Motion was made by Chuck Retka to approve the minutes from the May 26, 2016 special meeting. Seconded by Al Gehrke. Motion approved. Motion carried.

Motion to adjourn meeting by Shirley Katzenmeyer. 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  
June 28, 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: SOCORE RED MAPLE LLC, CHICAGO, IL, (APPLICANT): KATHLEEN REGENSCHEID REVOCABLE TRUST, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in the Conservancy "C" and Agriculture "A" Districts and the Special Protection "SP" District, on an unnamed stream. Property is located in the NW 1/4 SE 1/4, Section 24, Kasota 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:

- A 7' fence with 3 strands of barbed wire for a total fence height of 8'.
- Decommissioning Bond as set by the County Commissioners.

**ITEM #2: LYRA COMMUNITY SOLAR GARDEN, EDINA, MN, (APPLICANT): LARRY & SOLVEIG THEIS, SHAKOPEE, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in a Special Protection "SP" District, on a Natural Environment "NE" lake, Querum's Slough. Property is located in the SW 1/4 SW 1/4, Section 10, 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 condition:

- Decommissioning Bond as set by the County Commissioners.

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

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

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

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

## FINDINGS OF FACT

**WHEREAS, SOCORE RED MAPLE LLC, CHICAGO, IL, (APPLICANT); KATHLEEN REGENSCHEID REVOCABLE TRUST, (OWNER):** has applied for a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in the Conservancy “C” and Agriculture “A” Districts and the Special Protection “SP” District, on an unnamed stream. Property is located in the NW 1/4 SE 1/4, Section 24, Kasota Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on June 9, 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. *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. Agreed.*
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. Agreed.*
3. *With the imposition of appropriate conditions as stated, adequate utilities, access roads, drainage, and other facilities are being provided. Agreed.*
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. Agreed.*
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. Agreed.*
6. *With the imposition of appropriate conditions as stated, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance? Agreed (5-3)*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan? Disagree, as renewable energy is not addressed in the 2009 Comprehensive Land Use Plan.*

**WHEREAS,** On June 28, 2016, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application as requested by *SOCORE RED MAPLE LLC, CHICAGO, IL, (APPLICANT); KATHLEEN REGENSCHEID REVOCABLE TRUST, (OWNER).*

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the June 28, 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.*
6. *With the imposition of appropriate conditions as stated, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance?*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan?*

**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 a 3 MW solar garden in the Conservancy “C” and Agriculture “A” Districts and the Special Protection “SP” District, on an unnamed stream. Property is located in the NW 1/4 SE 1/4, Section 24, Kasota 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, LYRA COMMUNITY SOLAR GARDEN, EDINA, MN, (APPLICANT); LARRY & SOLVEIG THEIS, SHAKOPEE, MN, (OWNER):** has applied for a Conditional Use Permit to allow the applicant to construct a 3 MW solar garden in a Special Protection “SP” District, on a Natural Environment “NE” lake, Querum’s Slough. Property is located in the SW 1/4 SW 1/4, Section 10, Waterville Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on June 9, 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. **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. Agreed.**
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. Agreed.**
3. **With the imposition of appropriate conditions as stated, adequate utilities, access roads, drainage, and other facilities are being provided. Agreed.**
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. Agreed.**
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. Agreed.**
6. **With the imposition of appropriate conditions as stated, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance? Agreed (7-1)**
7. **Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan? Disagree,(5-3) as renewable energy is not addressed in the 2009 Comprehensive Land Use Plan.**

**WHEREAS,** On June 28,2016 at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application as requested by , **LYRA COMMUNITY SOLAR GARDEN, EDINA, MN, (APPLICANT); LARRY & SOLVEIG THEIS, SHAKOPEE, MN, (OWNER).**

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the June 28, 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.*
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6. *With the imposition of appropriate conditions as stated, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals, and objectives in the Ordinance?*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan?*

**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 a 3 MW solar garden in a Special Protection “SP” District, on a Natural Environment “NE” lake, Querum’s Slough. Property is located in the SW 1/4 SW 1/4, Section 10, 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: \_\_\_\_\_

**RESOLUTION OPTING-OUT OF  
THE REQUIREMENTS OF  
MINNESOTA STATUTES, SECTION 394.307**

**WHEREAS**, on May 12, 2016, the Governor of Minnesota signed into law Chapter 111 of the 89<sup>th</sup> Legislature of the State of Minnesota establishing definitions and requirements for Temporary Family Health Care Dwellings, which was introduced during the 2016 legislature session as Senate File 2555 and House File 2497; and

**WHEREAS**, Chapter 111 amends Minnesota Statute § 394 which regulates county permitting and zoning processes by establishing new rules for the placement of Temporary Family Health Care Dwellings on residential property; and

**WHEREAS**, the Minnesota Association of County Planning and Zoning Administrators, the professional association for county planning and zoning staff in Minnesota, supports the concept of Temporary Family Health Care Dwellings; and

**WHEREAS**, Chapter 111 erodes local control of the permitting process; limiting a county's ability to foster and guide development, and placing undue burden on county staff to forego standard permitting practices; and

**WHEREAS**, it is the intent of the Le Sueur County Board of Commissioners to protect the public health, safety, and general welfare of County residents and the environment of the County; and

**WHEREAS**, subdivision 9 of Minnesota Statute § 394.307 allows a county to "opt-out" of the regulations through the passage of a county board resolution; now therefore,

**BE IT RESOLVED**, Le Sueur County elects to regulate Temporary Family Health Care Dwellings through already existing permitting standards of the Le Sueur County Zoning Ordinance; and

**BE IT RESOLVED**, pursuant to authority granted by Minnesota Statutes, Section 394.307, Subdivision 9, the County of Le Sueur opts-out of the requirements of Minnesota Statute 394.307, which defines and regulates Temporary Family Health Care Dwellings.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the County Board of Commissioners of the County of \_\_\_\_\_.

County of Le Sueur

By: \_\_\_\_\_

John King, Chairman

Le Sueur County Board of Commissioners

ATTEST:

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Darrell Pettis, Le Sueur County Administrator