



Le Sueur County, MN

Thursday, November 10, 2016

Regular session

Item 2

Le Sun LLC- Patrick Gregor CUP Extension

Staff Contact: Kathy Brockway or Michelle Mettler

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
December 15, 2015

MEMBERS PRESENT: Don, Reak, Jeanne Doheny, Don Rynda, Chuck Retka, Shirley Katzenmeyer, Steve Olson, Doug Krenik, Al Gehrke, Betty Bruzek,

MEMBERS ABSENT: Pam Tietz

OTHERS PRESENT: Michelle Mettler, Kathy Brockway, Commissioner Connolly.

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

ITEM #1: LE SUN LLC, MINNEAPOLIS, MN (APPLICANT); PATRICK GREGOR, WASECA, MN (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to establish up to 5MW Solar Farm on approximately 50 acres in an Agriculture "A" District. Property is located in the Southeast 1/4 and Government Lot 6, Section 26, Waterville Township. **APPLICATION WAS TABLED AT THE NOVEMBER 12, 2015 MEETING.**

Michelle Mettler presented the power point presentation. Chuck Biesner, Sun Share was present for application.

TOWNSHIP: Notified through the application process. No comments. **DNR:** N/A **LETTERS:** none

PUBLIC COMMENT: none

Discussion was held regarding: road location change, grading on-site will get approval prior to zoning permit, conditional use permit if required for grading, excavating and filling, height of panels, drainage, work with landowner for tile locations, tile map provided, weed control, chemical used, native plantings, 2-3' in height, mow once a year, mow more than spray noxious weeds, butterfly garden, 8'3" highest set, 15' above grade at any highest point, grading to the west side of the property more than to the east, decommissioning plan, time frame, approximately 60 days for construction process, bonding, letter of credit, interconnection agreement with Excel, signage, lighting, lockable gate, fencing 6' maintenance free.

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 have been or are being provided. Agreed**
4. **Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Agreed**
5. **Adequate measures have been or 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**

Motion was made by Doug Krenik to approve the application with the following conditions:

- 8' chain link fence;
- Apply for Conditional Use Permit for grading, excavating and filling if necessary;
- Copy of proof of interconnection agreement provided to the County;
- Stormwater Plan approved by the State prior to issuance of zoning permit;
- Bond provided to the County for decommissioning of the site.

Seconded by Al Gehrke. Motion approved. Motion carried.

ITEM #2: WINGE CONSTRUCTION, COON RAPIDS, MN, (APPLICANT); TAMARA KAPLAN, SAVAGE, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to elevate the lowest floor of an existing dwelling to meet the Regulatory Flood Protection Elevation and meet FEMA general design standards in a Recreational Residential "RR" District and a Flood Plain Overlay Flood Fringe "FF" District on a Recreational Development Lake, Lake Frances. Property is located at Lot 6, Dick's Southside, Section 34, Elysian Township.

Michelle Mettler presented power point presentation. Jerry Winge, Winge Construction was present for application.

TOWNSHIP: Notified through application process. DNR: notified through the application process and several emails sent. No response LETTERS: none

PUBLIC COMMENT: none

Discussion was held regarding: raising house 32", explained the construction process, pilasters, 16x16 concrete blocks, hollow, not filled, able to hold water, install 2 sump pumps, install double drain tile, water has been an issue for years, house built in the late 60's early 70's, grade won't change, adding steps and pervious pavers for patio and sidewalk, grading, excavating and filling to meet the zoning ordinance requirements, stone added up to bottom of siding, similar to parking ramp construction, traps to keep rodents out, venting if required, timeframe as soon as possible.

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 have been or are being provided. Agreed*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Agreed*
5. *Adequate measures have been or 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*

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

ITEM #3: CHRIS SHORT, PRIOR LAKE, MN, (APPLICANT/OWNER): Requests that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of approximately 2441 cubic yards of material to establish a site for a walkout basement in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Frances. Property is located at Lot 3, Block 1, Han's Hideaway, Section 27, Elysian Township.

Michelle Mettler presented the power point presentation. Chris Short was present for application.

TOWNSHIP: Notified through the application process. DNR/LETTERS: Letter in file, No DNR violation on this property; Mike Schultz, No wetland Issues, Joshua Mankowski, LSC Resource Specialist, Elysian State Bank, and Deanna Refsteck (email) see file.

PUBLIC COMMENT: Roland Wagner, adjacent landowner, felt what was presented on the survey is not the same as what was being done, berm to the lake, Mr. Short was upfront with them from the beginning, he wants to do what is right, miscommunications, good neighbor, supports the application. Brian Barnett, Lake Francis Lake Association, Board of Directors, they are not in favor or against the application; Le Sueur County has ordinances that need to be followed, protect the lake. Lake Francis Association works hard to get information out to lakeshore owners, provides contacts for state, county, and city officials. Chris Short read an email he received from Randy Appel, not part of the record.

Discussion was held regarding: removal of material in order to get a solid foundation pad for construction of a new home, house is approximately 4000 sq. ft., area graded out is 7400 sq. ft.- normal building practices to do 10% over & the entire front is driveway, hauled in sandy material, did you do a compaction test-not sure, contractor should of known to stop-did the same on the adjacent lot 12 months ago, excessive amount of grading, length of driveway changed, turn around required, letter from the attorney states an engineered site plan was submitted for permit but the site plan was hand drawn, why didn't you build in the sloped area that would be conducive for a walkout, why not go through the appeal process with the Board of Adjustment-still an option & felt the conditional use permit process was faster, met on site with staff regarding tree removal, septic location, Michelle Mettler read Joshua Mankowski letter into the record, fees, penalties, difference in cubic yards from what the surveyor provided vs. the applicant and contractor, lengthy discussion in regards to the placement of the house on the lot, slab on grade vs. walkout, applicant would like to move forward with the project as presented, contractor should have stopped when doing the site prep due to inadequate slope for a walkout. Responsibility of Planning Commission is to abide by and enforce the zoning ordinance, dream retirement home, natural buffers, house on slab, modified 2-story, conditional use permit requirements vs. zoning permit requirements, states on zoning permit-additional grading, excavating and filling may require a conditional use permit.

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 have been or are being provided. Agreed***
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Agreed***
- 5. Adequate measures have been or 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.***

Motion was made by Al Gehrke to approve the application with a 15' buffer strip along lakeshore. Seconded by Steve Olson. Roll Call Vote; Don Reak-Nay, Chuck Retka-Nay, Betty Bruzek-Aye, Shirley Katzenmeyer-Nay, Jeanne Doheny-Nay, Steve Olson-Aye, Al Gehrke-Aye, Don Rynda-Aye, Doug Krenik-Nay. 5-4 motion failed.

Motion was made by Doug Krenik to approve the application with Joshua Mankowski's recommendation: 541 cubic yds of material excavated for site preparation, the 170 cu yds

of material movement already done to construct the building pad and the 155 cu yds of material movement needed to complete the building pad. This approval would allow for the construction of a slab-on-grade structure.

A natural buffer is created along the shoreline and 15 feet inland from the lake to add protection and; Any future grading on site be kept to a minimum and conform to zoning ordinance requirements.

Seconded by Shirley Katzenmeyer Motion approved. Motion carried.

Motion was made by Don Rynda to approve the minutes from the November 12, 2015 meeting by Seconded by Don Reak. Motion approved. Motion carried.

Motion to adjourn meeting by Chuck Retka. Seconded by Shirley Katzenmeyer. Motion approved. Motion carried.

Meeting Adjourned.

Respectfully submitted,

Michelle Mettler,
Kathy Brockway

Approved February 11, 2016

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



September 13, 2016

Le Sueur County
Attn: Kathy Brockway, Environmental Services Director
88 South Park Avenue
Le Center, MN 55057

RE: Permit Extension Request – LeSun LLC / Gregor Community Solar Garden

Dear Kathy,

In October 2015, SunShare applied for a Conditional Use Permit for our Community Solar Garden project within the Le Sueur County. At the time of application, we anticipated a timely interconnection study from Xcel Energy and to be ready to construct this project in Fall of 2016. However, our project has encountered complications and delays which were beyond our control.

Please consider this letter a formal request from SunShare to extend the Conditional Use Permit for the LeSun LLC (Gregor) site for twelve months.

In the case of the LeSun LLC (Gregor) project, the delays were due to a protracted engineering study process with Xcel Energy. We received initial interconnection study results from Xcel Energy in October 2015, which limited the size of the project. However, our engineers disagreed with the study methodology. Following extensive discussion with Xcel Energy, SunShare filed a formal complaint with the Minnesota Public Utilities Commission seeking resolution from an independent engineer.

In May 2016, the independent engineer reached the same conclusion as SunShare regarding the study methodology. Xcel Energy appealed this determination, and the Minnesota Public Utilities Commission is scheduled to finalize the decision in late September 2016.

We have made significant progress on the project with completing our due diligence, environmental permits and design. However, Due to this significant delay, we are unsure if we will be able to construct in the 2016 construction timeframe. Therefore, we are requesting a permit extension to ensure the viability of the permit into the Spring of 2017 construction timeframe. Thank you for reviewing and considering this request.

Sincerely,

Chuck Beisner
Director of Project Development
cbeisner@mysunshare.com
612-701-4855

609 South 10th Street, Suite 210 | Minneapolis, MN 55404
612.345.8881 | info@mysunshare.com | www.mysunshare.com



Chuck Beisner <cbeisner@sunsharecorp.com>

LeSun - SunShare - Gregor

2 messages

Chuck Beisner <cbeisner@mysunshare.com>

Tue, Aug 9, 2016 at 4:27 PM

To: "Brockway, Kathy" <kbrockway@co.le-sueur.mn.us>

Kathy:

As I understand it, our CUP expires on 12/15. If we do not get started on construction this fall we will not start construction until early spring of 2017. What would the process be for getting approval to extend our CUP an additional 12 months?

Thanks,

Chuck Beisner | Site Acquisition and Permitting Specialist | SunShare

609 S 10th Street, Ste 210 | Minneapolis, MN 55404

(O) 612.345.8881

(M) 612.701.4855(E) cbeisner@mysunshare.comwww.mysunshare.com

Brockway, Kathy <kbrockway@co.le-sueur.mn.us>

Wed, Aug 10, 2016 at 9:40 AM

To: Chuck Beisner <cbeisner@mysunshare.com>

Good Morning Chuck,

In answer to your question pertaining to not completing the project as granted by the Conditional Use Permit. You will need to reapply for the conditional use permit, pay the fee of \$750.00 plus recording fee of \$46.00. The deadlines for the application are posted on the county website as well as the conditional use permit forms.

Kathy

SUBDIVISION 5. LAPSE CONDITIONAL USE PERMIT BY NON-USE

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- A. After granting a Conditional Use Permit, if the work as permitted by the permit shall not have **been completed within one (1) year.**

1. Such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board of County Commissioners.
 2. Such extension **shall be requested in writing and filed with the Department at least thirty (30) days before the expiration of the original Conditional Use Permit.**
 - ✓ 3. The request for **extension shall state facts showing a good faith attempt** to complete the work permitted in the Conditional Use Permit.
 4. Such petition shall be presented to the Planning Commission and Board of County Commissioners for decision.
- B. In the event a Conditional Use Permit is discontinued or its approved operation is stopped for a period of one (1) year, the Conditional Use Permit shall become null and void.

From: Chuck Beisner [mailto:cbeisner@mysunshare.com]
Sent: Tuesday, August 09, 2016 4:28 PM
To: Brockway, Kathy
Subject: LeSun - SunShare - Gregor

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