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# **Le Sueur County, MN**

**Tuesday, November 28, 2017**

**Board Meeting**

## **Item 2**

**9:05 a.m. Kathy Brockway, PZ Administrator (5 minutes)**

*Request for Action-2 CUP's*

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

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**  
**88 SOUTH PARK AVE.**  
**LE CENTER, MINNESOTA 56057**  
**November 9, 2017**

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

**MEMBERS ABSENT:** Commissioner Wetzel

**OTHERS PRESENT:** Kathy Brockway

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

**ITEM #1: ARCURUS COMMUNITY SOLAR GARDEN LLC, EDINA, MN, (APPLICANT); LUNDIN LLC (LUNDIN FAMILY LLC), MADISON LAKE, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 1 MW solar garden in an Agriculture "A" District and Mineral Resources "MR" Overlay District. Property is located in the SE quarter of Section 33, Kasota Township.

Kathy Brockway presented power point presentation. Kara Bakke and Andrew Catania, Geronimo Energy were present for application.

TOWNSHIP: Notified through the application process. DNR:N/A LETTERS: none

PUBLIC COMMENT: **Josh Harbitz**, landowner, questioned screening of site, plantings, glare, noise, property values decreased, purchased property in an Agricultural area. **Jeff Gunderson**, adjacent landowner, mining vs. solar energy, glare, aesthetics of the area. **Terry Overn**, representing the Lundin Family and SMC, discussed the mining permitted in the area, land currently rented out as ag land alternate cropping, screening.

Discussion was held regarding: presentation by Geronimo Energy representatives explaining the solar energy projects throughout the State, several sites permitted and under construction in Le Sueur County, bonding required for decommissioning of the site, Xcel Energy will only allow 1MW sites due to an over load of applications, interconnection agreement with Xcel, driveway access, parking, 25 year lease with property owner, grading, filling and excavating, if over the permitted amount of material movement, are aware that an additional conditional use permit will be required, maintenance of property, truck traffic, time frame, approximately 3 months if granted dependent on weather.

Findings by majority roll call vote:

1. *With the imposition of the conditions, 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 the conditions, 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 the conditions, adequate utilities, access roads, drainage and other facilities are being provided.*
4. *With the imposition of the conditions, adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *With the imposition of the conditions, 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 the conditions, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *With the imposition of the conditions, the Conditional Use Permit consistent with the Comprehensive Land Use Plan.*

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

1. ***Project Manager to work with the landowner to provide adequate screening on the South and East side of the property and submit a copy to the department.***
2. ***All construction parking shall be provided within the project area (No parking on county road).***
3. ***Bond provided to the County prior to construction.***

Seconded by Al Gehrke. Motion approved 6-1. Pam Tietz, opposed the application due to relationship to county plan, land use goals and policies, preservation of ag land, the geographical area negative impacts on surrounding properties. Motion carried.

**ITEM #2: DERRICK LEDVINA, CLEVELAND, MN, (APPLICANT); RICHARD LEDVINA, CLEVELAND, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of approximately 44 cubic yards of material in the shore impact zone, 76 cubic yards outside the shore impact zone, 40 cubic yards in the bluff, 80 cubic yards in the bluff impact zone; construct 2 retaining walls in the bluff for the construction of a septic system located in the bluff in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 4, Cape Horn Subdivision, Section 1, Cleveland Township.

Kathy Brockway presented power point presentation. Wayne James, James Brothers Construction, representing the applicant was present for application.

TOWNSHIP: Notified through the application process DNR: No Comments. LETTERS: Joshua Mankowski, LSC Resource Specialist (see file).

PUBLIC COMMENT: none

Discussion was held regarding: variance granted in October to deviate from setbacks, retaining walls constructed to support the bluff, pea rock, mesh fabric proposed in order to support walls, difficult lot to put system on, if retaining walls are under 4' in height not required to have engineering design, warranty of walls, system (James Brothers), farmers required to follow new buffer law requirements, clean water act, no land available, cluster system was not an option, costs involved, time frame for engineered plans, ordinance requirements, holding tank vs. standard systems, year round residence, pumping requirements, lengthy discussion in regards to bank stabilization, contractor looked at all options.

Findings by majority roll call vote:

1. *With the imposition of the conditions, 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 the conditions, 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 the conditions, adequate utilities, access roads, drainage and other facilities are being provided.*
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6. *With the imposition of the conditions, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *With the imposition of the conditions, the Conditional Use Permit consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to deny the application as requested, as septic systems do not belong in the bluff, goes against the ordinance requirements. Seconded by Al Gehrke. Motion failed 3-4. Motion carried.

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

1. ***Retaining walls shall be designed by an engineer.***
2. ***Obtain an engineering certificate to ensure that the design is sound and that wall and bluff stability will be maintained.***

Seconded by Shirley Katzenmeyer. Motion approved 5-2. Don Reak and Al Gehrke, opposed as it is not a good idea to install a septic system within a bluff, no engineering plans to review, does not meet the ordinance requirements. Motion carried

Motion was made by Don Reak to approve the minutes from the October 12, 2017, meeting with the noted change of Krenik to Katzenmeyer. Seconded by Shirley Katzenmeyer. Motion approved. Motion carried.

**DISCUSSION ITEM:** *Don Reak recommends that the Zoning Administrator request that the County Board increase the Per Diem in 2018 to \$75.00 for the Planning Commission members due to the amount of time/involvement it takes to serve on the committee.*

Motion to adjourn meeting by Don Reak. Seconded by Al Gehrke. Motion approved. Motion carried.

Meeting Adjourned.

Respectfully submitted,  
Kathy Brockway for  
Pam Tietz, Secretary

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

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION  
November 28, 2017

**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: ARCURUS COMMUNITY SOLAR GARDEN LLC, EDINA, MN, (APPLICANT); LUNDIN LLC (LUNDIN FAMILY LLC), MADISON LAKE, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a 1 MW solar garden in an Agriculture "A" District and Mineral Resources "MR" Overlay District. Property is located in the SE quarter of Section 33, 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:

1. *Project Manager to work with the landowner to provide adequate screening on the South and East side of the property and submit a copy to the department.*
2. *All construction parking shall be provided within the project area (No parking on county road).*
3. *Bond provided to the County prior to construction.*

**ITEM #2: DERRICK LEDVINA, CLEVELAND, MN, (APPLICANT); RICHARD LEDVINA, CLEVELAND, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow grading, excavating and filling of approximately 44 cubic yards of material in the shore impact zone, 76 cubic yards outside the shore impact zone, 40 cubic yards in the bluff, 80 cubic yards in the bluff impact zone; construct 2 retaining walls in the bluff for the construction of a septic system located in the bluff in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 4, Cape Horn Subdivision, Section 1, Cleveland 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:

1. *Retaining walls shall be designed by an engineer.*
2. *Obtain an engineering certificate to ensure that the design is sound and that wall and bluff stability will be maintained.*

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

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

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

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

## FINDINGS OF FACT

**WHEREAS, ARCURUS COMMUNITY SOLAR GARDEN LLC, EDINA, MN, (APPLICANT); LUNDIN LLC (LUNDIN FAMILY LLC), MADISON LAKE, MN, (OWNER):** has applied for a Conditional Use Permit to allow the applicant to construct a 1 MW solar garden in an Agriculture “A” District and Mineral Resources “MR” Overlay District. Property is located in the SE quarter of Section 33, Kasota Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on November 9, 2017 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 with conditions, due to the following findings:

- 1. With the imposition of the conditions, 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 the conditions, 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 the conditions, adequate utilities, access roads, drainage and other facilities are being provided.*
- 4. With the imposition of the conditions, adequate measures will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
- 5. With the imposition of the conditions, 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 the conditions, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
- 7. With the imposition of the conditions, the Conditional Use Permit consistent with the Comprehensive Land Use Plan.*

**WHEREAS,** On November 28, 2017 at their regularly scheduled meeting, the Le Sueur County Board of Commissioners **APPROVED/DENIED** the Conditional Use Permit application with conditions by **ARCURUS COMMUNITY SOLAR GARDEN LLC, EDINA, MN, (APPLICANT); LUNDIN LLC (LUNDIN FAMILY LLC), MADISON LAKE, MN.**

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the November 28, 2017, 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 the conditions, 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 the conditions, 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 the conditions, adequate utilities, access roads, drainage and other*

*facilities are being provided.*

- 4. With the imposition of the conditions, 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 the conditions, the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
- 7. With the imposition of the conditions, 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 1 MW solar garden in an Agriculture "A" District and Mineral Resources "MR" Overlay District. Property is located in the SE quarter of Section 33, Kasota Township, is **APPROVED/DENIED**.

ATTEST:

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Steve Rohlfig, Chairman, Le Sueur County Board of Commissioners.

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Darrell Pettis, Le Sueur County Administrator

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

## FINDINGS OF FACT

**WHEREAS, DERRICK LEDVINA, CLEVELAND, MN, (APPLICANT); RICHARD LEDVINA, CLEVELAND, MN, (OWNER):** has applied for a Conditional Use Permit to allow grading, excavating and filling of approximately 44 cubic yards of material in the shore impact zone, 76 cubic yards outside the shore impact zone, 40 cubic yards in the bluff, 80 cubic yards in the bluff impact zone; construct 2 retaining walls in the bluff for the construction of a septic system located in the bluff in a Recreational Residential “RR” District, on a Recreational Development “RD” lake, Lake Jefferson. Property is located at Lot 4, Cape Horn Subdivision, Section 1, Cleveland Township.

**WHEREAS,** the Le Sueur County Planning and Zoning Commission held on public hearing on November 9, 2017, 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 **denial/approval** of the application with conditions, due to the following findings:

- 1. With the imposition of the conditions, 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 the conditions, 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.*
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- 7. With the imposition of the conditions, the Conditional Use Permit consistent with the Comprehensive Land Use Plan.*

**WHEREAS,** On November 28, 2017, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application with conditions as requested by **DERRICK LEDVINA, CLEVELAND, MN, (APPLICANT); RICHARD LEDVINA, CLEVELAND, MN, (OWNER).**

**NOW, THEREFORE, IT IS HEREBY RESOLVED,** the following Findings of Fact were adopted at the November 28, 2017, 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 the conditions, 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.*
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**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 grading, excavating and filling of approximately 44 cubic yards of material in the shore impact zone, 76 cubic yards outside the shore impact zone, 40 cubic yards in the bluff, 80 cubic yards in the bluff impact zone; construct 2 retaining walls in the bluff for the construction of a septic system located in the bluff in a Recreational Residential “RR” District, on a Recreational Development “RD” lake, Lake Jefferson. Property is located at Lot 4, Cape Horn Subdivision, Section 1, Cleveland Township, is APPROVED/DENIED.

ATTEST:

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Steve Rohlfig, Chairman, Le Sueur County Board of Commissioners.

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Darrell Pettis, Le Sueur County Administrator

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