

City of Winsted
Planning Commission
Winsted City Hall - City Council Chambers
August 8, 2016
6:00 p.m.

Planning Commission Members Present: Mr. Marvin Ebensperger
Mr. Mike Guggemos
Mr. Mike Henrich
Ms. Allison Moses
Mr. Tom Ollig, City Council Liaison

Planning Commission Members Absent: Ms. Jolynn Cafferty

Staff Present: Mr. Daniel Tienter, City Administrator

1) Call the Meeting to Order

Mr. Marvin Ebensperger called the meeting to order at 6:00 p.m.

2) Approval of Minutes – July 11, 2016

Mr. Mike Henrich made a motion to approve the minutes of the Planning Commission Meeting on July 11, 2016. Ms. Allison Moses seconded the motion. Motion carried 4-0.

3) Old Business

a) On-Street Parking in Cul-de-sacs

Mr. John Anderson, Associate Consulting Planner with Municipal Development Group, LLC, updated the committee on research performed in regards to on-street parking in cul-de-sacs and city streets in general. The question researched was whether parking should be limited or prohibited on cul-de-sacs and/or City streets. Mr. Anderson stated that discussion took place at the July 11, 2016 Planning Commission meeting and staff was directed to research if other cities restricted the amount of time a vehicle could be parked on the street.

Mr. Anderson stated that his research indicated that while many of the cities did not have any specific time requirements, there were a few cities that did. The most common ordinance was a forty-eight (48) hour limit on parking on streets. Mr. Anderson presented parking regulations from other Minnesota cities.

Prior Lake: 901.205 General Time Limit for Parking: No person shall park a vehicle or permit it to stand upon any Street in any place for a longer continuous period than forty-eight (48) hours.

Savage: 71.02 No Parking Places. At any time it shall be unlawful to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-controlling device.

- A. On any street, roadway or public parking lot between the hours of 2:00 a.m. and 6:00 a.m. on any day from November 1 until March 31, except as may be allowed specifically by designated signage or by permit;
- B. In any intersection;
- C. In a crosswalk;
- D. Upon any bridge or viaduct or in any subway or tunnel or the approach thereto;
- E. Between a safety zone and the adjacent curb or within thirty (30) feet of a point of the curb immediately opposite the end of a safety zone;

- F. Within thirty (30) feet of a traffic signal, beacon or sign on the approaching side;
- G. Within twenty (20) feet of an intersection or crosswalk;
- H. At any place where the standing of a vehicle will reduce the usable width of the roadway for moving traffic to less than eighteen (18) feet;
- I. Within fifteen (15) feet of a fire hydrant;
- J. At any place where the vehicle would block the use of a driveway;
- K. Within fifty (50) feet of the nearest rail of a railroad grade crossing;
- L. Within twenty (20) feet of the driveway entrance to any Fire Department station and on the side of the street opposite the entrance to any station within seventy-five (75) feet of an entrance when properly signposted;
- M. On any sidewalk or parkway;
- N. At any place where official signs prohibit parking; and
- O. In areas posted "No Parking Fire Lane."

- Belle Plaine: 501.05 Subd. 6. Parking Hours. It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of forty-eight (48) hours.
- Jordan: 73.08 Parking Hours. (A) It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of twenty-four (24) hours.
- Norwood Young America: 720.03 General Parking Time Limit. No person shall park any vehicle for a longer period of time than forty-eight (48) consecutive hours on any street in this City.
- Chaska: Section 25. - Maximum parking hours. (a) No vehicle, owned by a person unrelated to the occupier of the nearest residence thereto, shall be parked unattended on any street or alley in the City for more than forty-eight (48) consecutive hours unless otherwise posted.

The Planning Commission discussed the definition of "moving" a vehicle. The Commissioners cited examples, such as driving the vehicle around the block, moving a vehicle forward a few feet, and etcetera. Mr. Anderson stated that given the vagueness of the ordinance, those examples would be sufficient to meet this requirement as the rule is currently written. The purpose of the ordinance is to keep vehicles off the street that are not being used. Mr. Anderson added that this would give the City the power to enforce and ask an owner to move a vehicle after a set time period. Enforcing this type of ordinance would be difficult and burdensome. The Planning Commission discussed whether this type of ordinance language would correct the problem or just create more problems and complaints.

Mr. Dan Tienter, City Administrator, added that enforcement would be an issue due to the vagueness of some of the language (if the vehicle were to move even a couple of feet to a new parking spot, it would satisfy the burden in the ordinance). Outside of the current situation that has been brought to the attention of the City, staff has not received any significant complaints or issues about parking or vehicles situated on roads. Mr. Tienter added that while it might be timely for this particular complaint to discuss limits like this, it does not seem to be resolving any other issues that would be found elsewhere in the community.

Mr. Tienter further stated that no motion is required at this time. He added that he will report back to the City Council, since it was referred at their request, that the Planning Commission reviewed the matter and ultimately decided not to take any further action or make any amendments to the parking ordinance at this time.

Mr. Ebensperger added that if there are more complaints or problems in the future, the Planning Commission can look into this subject again. At this time, it would cause more problems than solve them.

b) Public Hearing – Planning Commission Resolution PCR-16-04 – Interim Use Permit for Minnesota Solar, LLC

Mr. Ebensperger re-opened the Public Hearing on PCR-16-04 – Interim Use Permit for Minnesota Solar, LLC.

Mr. Anderson reviewed a memo prepared for the meeting regarding the interim use permit (IUP), the site plan review, and a separate application request for a fence variance that is part of the site plan review for Minnesota Solar, LLC. Mr. Anderson stated that the property itself is forty (40) acres in size. The west half is industrial and the east half is commercial. It is zoned for industrial which does allow for community solar gardens as an IUP. He added that there will be a sixteen (16) foot service road that will be accessed from the east property line. There will be three (3) different gardens on the property. Mr. Anderson stated that the gardens are known as Highlander One (1), Two (2), and Three (3). Mr. Anderson stated that there have been some adjustments to the plan to minimize impact and add spacing for wetland areas. There have been numerous discussions about the wetlands and all parties seem to be satisfied with the current proposal in regards to potential impact, tree removal, and other wetland concerns.

Mr. Anderson stated that there are some specific zoning requirements in the City Code that go along with solar gardens and site plan review. Each will be looked at and any requirements attached to them will be addressed. Since the solar garden is directly east of the airport, there will be an airport review and certain conditions will need to be met. At this point, there have been no major issues. Mr. Anderson stated that because the site is located on Babcock Avenue (McLeod County Road 1) and 230th Street (McLeod County Road 5), McLeod County has reviewed the plans and the only major comment was that no solar panels block the sight lines at the intersection of the county roads. Mr. Anderson stated that the applicant has addressed this concern so the solar panels and fence will be kept out of those areas.

Mr. Anderson stated that since it is an IUP, it will terminate upon the occurrence of any of the following events; whichever first occurs:

1. The date specified in the permit.
2. A violation of the conditions under which the permit was issued.
3. A change in the City's zoning regulations which render the use nonconforming.

Mr. Anderson stated that at this time, the community solar energy system has proposed a twenty-five (25) year lease with an option to extend an additional five (5) years. The termination date for this IUP shall be thirty (30) years from the date of the IUP approval by the City Council. Mr. Anderson stated that it is assumed the City Council will take action in August, 2016, meaning the termination date would be thirty (30) years from that date.

Mr. Anderson stated that setbacks are to meet the setback and coverage limitations for the zoning district in which the system is located, in this case the I-1 district:

	<u>Requirement</u>	<u>Proposed</u>
Front yard:	25 feet	25 feet
Side yard (north and south property line):	10 feet	exceeds 10 feet
Side yard street side:	25 feet	54 feet
Rear yard (west property line):	25 feet	26 feet
Lot Coverage:	50%	Assumed well under 50%

Mr. Anderson stated that a storm water management plan has been submitted for review. The plan is sufficient at this time after a meeting with the City Engineer, McLeod County, and wetland representatives. The wetlands located on site have been officially delineated. There was also a TET panel review. Mr. Anderson added that there were some modifications to the wetland boundary and the site plans have been adjusted to reflect the modifications.

Mr. Anderson stated that the applicant has proposed screening along the east and south property lines adjacent to where the solar panels are going to be placed. Mr. Anderson stated that the property itself extends about 25% further north but no solar panels are going in that area so screening is not necessary and the natural vegetation will be left alone. The fence itself is proposed to be a seven (7) foot chain link fence around the entire perimeter of the property. The variance is needed because, per Winsted ordinance, front yard fences are only supposed to be four (4) feet high and cannot be chain link. Mr. Anderson stated that because this is such a large scale property, the applicant is proposing a seven (7) foot fence around the entire solar garden.

Mr. Anderson stated that the site plan consideration will need to be addressed, and it is a separate, actionable item by the City Council and Planning Commission.

Mr. Anderson stated that the following conditions are recommended to be included if the Planning Commission recommends approval of the IUP. These conditions may be subject to modification depending upon the outcome at the Planning Commission meeting:

1. City Engineer Review. The interim use permit request shall satisfactorily address any issues raised by the City Engineer.
2. Site Plan Review. That a site plan is also approved for the proposed community solar energy system (SES).
3. Stormwater Management. Any storm water management items that arise will need to be satisfied by the applicant after review by the City Engineer.
4. McLeod County Review. The community solar energy system shall satisfactorily address any issues raised by McLeod County. If any access related permits are required it shall be the responsibility of the owner or applicant to receive approval of these permits prior to construction of the community solar energy system.
5. MnDOT Comments. That all comments are satisfied from the Minnesota Department of Transportation (MnDOT) in an email dated January 29, 2016.
6. Wetlands. It shall be the responsibility of the applicant that no impacts to the wetlands occur.
7. Building Permit. All community solar energy systems shall meet the standards of the Minnesota Building Code and all applicable local, state and federal regulatory standards. The owner or applicant shall receive a building and/or mechanical permit before installation.
8. Fence. That a variance is approved for the fence to exceed the maximum height requirement along the front yards and to allow for a chain link fence and that a fence permit is approved prior to the installation of the fence to be located around the community solar energy system.
9. Signage. If any signs are required or installed, they shall meet the requirements of section 1501.023 of the zoning ordinance and no signs shall be replaced, installed or constructed until the appropriate sign permits have been issued by the City of Winsted.
10. Interconnection Agreement. An interconnection agreement must be submitted to the utility company and proof be provided to the City that the utility company has deemed the agreement complete.
11. Emergency Shutdown. The owner or applicant of the system must submit to the City a detailed emergency shutdown plan as part of the review process.
12. Screening. Community solar energy systems shall be screened from adjacent residential uses in accordance with section 1501.014 (General Regulations and Performance Standards), letter I (Screening Provisions) of the zoning ordinance. Screening details shall be provided prior to approval.
13. Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels meets the accepted professional standards, given local soil and climate conditions.
14. Power and Communication Lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground on premise. The City may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.
15. Decommissioning Plan. The City requires the owner or applicant to submit a decommissioning plan

for the community solar energy system to ensure that the owner or applicant properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or applicant shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all applicant, federal, state and local requirements. The City may require the owner or applicant to provide a current day decommissioning cost estimate and shall post a bond, letter of credit or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council, to ensure proper decommissioning.

16. Underwriters Laboratory Listing. Electric SES components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
17. Electric Code. All solar energy systems shall meet the standards of the Minnesota and National Electric Code.
18. Glare. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.
19. Abandonment. Any solar energy systems which are inoperable for twelve successive months shall be deemed to be abandoned and shall be deemed a public nuisance. The owner or applicant shall remove the abandoned system at their expense after obtaining a demolition permit.
20. Jurisdictional Requirements. All solar energy systems shall meet all federal and state requirements including the Public Utilities Commission (PUC) requirement and size requirements.
21. Documentation. That the applicant provide all required materials and information as stated in the zoning ordinance.
22. Recording. A certified copy of the interim use permit shall be filed with the McLeod County Recorder. The interim use permit shall include the legal description of the property involved.
23. Fees. To defray administrative costs of processing requests for interim use permits, a fee, as established by the City Council, shall be paid by the applicant at the time the application is requested. The City shall also be reimbursed for any additional costs associated with review of a proposal as set by the City Council.
24. Lapse of Interim Use Permit by Non-Use. Whenever within one (1) year after granting the interim use permit the work permitted has not been started, then such permit shall become null and void unless a petition for an extension has been provided by the Planning Commission.
25. Annual Audit of Interim Use Permits. The Planning Commission or designee shall audit compliance with each interim use permit on an annual basis. This annual compliance audit will be held at the regular meeting closest to this anniversary date. The Commission or its designee shall monitor the compliance of the use to determine if the Property Owner is in keeping with the conditions and purpose that were imposed.

Recommended site plan conditions:

1. Developer's Agreement. Prior to issuing a building permit, the City Council may require the developers to sign an agreement with the City which assures that particular elements of the Site Plan application, either proposed by the applicant or imposed by the City, shall be carried out.
2. Time Limit from Site Plan Approval until Building Permit is Issued. From the time the applicant receives site plan approval from the City Council, the applicant must be issued a building permit within

twelve (12) months from the site plan approval date. Failure to do so will require the applicant to obtain a new site plan approval, with appropriate fees, to receive a building permit. The applicant may apply for one (1) six-month extension before the expiration date. Application for an extension is an administrative process.

Mr. Mike Guggemos asked for clarification regarding the Decommissioning Plan and how it will be funded. Mr. Anderson replied, per City code, a section would be added that requires the applicant to post a bond, letter of credit, or establish an escrow account. Mr. Tienter added that it would just be a matter of what form that type of insurance took, the City would work with the developer to arrive at a mutually agreed upon form of insurance. He added that this approval just leaves options open to pick one of those options as part of that agreement.

The Planning Commission posed questions and had discussion regarding the screening. Mr. Anderson clarified that the fencing is only going around the solar garden and not the entire property line, so parts of the property will be left natural. The screening will be placed around the fencing. Mr. Anderson stated that the Planning Commission and then ultimately the City Council will approve the screening. As part of the yearly IUP review, landscaping and screening could be reviewed and if the requirements are not being met, it can be addressed. Mr. Tienter added that this detail does not need to be decided tonight as part of this action.

Mr. Tienter requested clarification regarding the screening on residential sides as the City Council's desire would be to have it completely screened. Mr. Anderson verified that the company's intention is to screen the entire solar garden, not just residential sides.

Mr. Tienter made a recommendation to amend item twelve (12) of the screening section (that screening is provided from all adjacent zones as opposed to just residential zones) to be consistent with what the developer is proposing and to better reflect the Planning Commission requirements. Mr. Tienter further recommended that some of the more specific language about the ordinance sections be deleted, and add that it will be screened from adjacent uses, and the screening would be ultimately approved by the Planning Commission at a future meeting.

Mr. Anderson further discussed screening and language options. He stated that the IUP could state that "the applicant shall screen these locations with 100% natural vegetation." He added that this condition would satisfy the recommendation and, as long as it meets 100% of the requirement in those locations. Mr. Anderson stated that the City Council could make that final decision unless the Planning Commission wants to review it first. Mr. Ebensperger stated that based on the current recommendation, the review does not need to come back to the Planning Commission but could go straight to the City Council for approval. Mr. Henrich requested that language be included requiring additional screening be added to unspecified areas as needed, to prevent visibility of the Solar Garden from the road.

Ms. Michelle Matthews, Minnesota Solar, LLC, introduced herself and colleague, John O'Donnell. Ms. Matthews commented that, per the proposal, the evergreen trees will be planted twelve (12) feet on center to help meet the goal of being 80% to 100% covered within two (2) growing seasons. She added that the screening could be reviewed at the annual site review, and if there are plantings that are not surviving, it can be addressed at that point.

The Planning Commission presented questions in regards to the proposed trees. Ms. Matthews replied that Black Spruce tend to be eight (8) to ten (10) feet wide, so having twelve (12) feet on center should allow them to overlap, and they should overlap to the point that they are covering a seven (7) foot fence. Ms. Matthews added that the goal of Minnesota Solar is to be responsive to the community they are in and they would be open to adding more screening as needed to prevent the solar garden from being seen from the road.

Mr. Tienter stated that City staff has received no other comments, written or otherwise, since the last Planning Commission meeting regarding the IUP or site plan review.

Ms. Moses made a motion to close the public hearing for Resolution PCR-16-04 – Interim Use Permit for Minnesota Solar, LLC. Mr. Henrich seconded the motion. Motion carried 4-0.

Mr. Anderson adjusted a portion of the screening language based on the Planning Commission's recommendation, adding "the community solar energy system shall be screened with 100% opacity from the adjacent uses and from view from the road frontage; east and south property line; northeast and southwest corner; and west property adjacent to the airport access road."

Mr. Anderson asked if there would be one (1) or two (2) rows of plantings. Ms. Matthews replied that there is usually one (1) row of plantings with deciduous in addition to that.

Ms. Moses made a motion to adopt Resolution PCR-16-04 – Interim Use Permit for Minnesota Solar, LLC with the recommended language changes in regards to screening. Mr. Guggemos seconded the motion. Motion carried 4-0.

c) Planning Commission Resolution PCR-16-06 – Site Plan Review for Minnesota Solar, LLC

Mr. Anderson stated that this is a continuation of a tabled discussion from the previous Planning Commission meeting in July, 2016. Mr. Anderson stated that there was a development agreement condition and a time limit condition if development did not start within the year period. The site plan and various conditions will be addressed with the developer agreement.

Mr. Ebensperger asked if the current site plan review meets all of the requirements, including the rear setbacks. Mr. Anderson stated that the applicant went through basic adjustments, so the requirements, including the setbacks, are all being met right now. The site triangle is no longer being encroached and there was a tweak to the service road to push it back from the wetlands a little which helped with spacing.

Mr. Henrich made a motion to adopt Resolution PCR-16-06 – Site Plan Review for Minnesota Solar, LLC. Mr. Guggemos seconded the motion. The motion carried 4-0.

d) Public Hearing – Planning Commission Resolution PCR-16-05 – Variance for Minnesota Solar, LLC

Mr. Ebensperger opened the public hearing for Resolution PCR-16-05 – Variance for Minnesota Solar, LLC.

Mr. Anderson stated that a public hearing was opened at the July 11, 2016 Planning Commission meeting to allow for a height and materials variance for a fence in the I-1 Industrial District at 23121 Babcock Avenue (McLeod County Road 1) and was continued until the August 8, 2016 Planning Commission meeting. Mr. Anderson stated that if the variance is denied, the fence will need to be adjusted to a different height or meet the requirements of the zoning ordinance. Mr. Anderson added that a fence is allowed in the current location; however, the variance is for the height and material of the fence. Mr. Anderson reviewed the criteria and conditions of the proposed variance:

Criteria

The Planning Commission shall not authorize a variance from the provisions or requirements of the Zoning Ordinance unless it finds evidence that all of the following facts and conditions exist:

1. Evidence of ownership or enforceable option on the property.
2. The variance is consistent with the City of Winsted's Comprehensive Plan.
3. The variance is in harmony with the general purposes and intent of the ordinance.
4. The Applicant establishes that there are 'practical difficulties' in complying with the zoning ordinance. Practical difficulties as used in connection with the granting of a variance, means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.
5. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Conditions

Height and Materials Variance

The following conditions are recommended to be included with the approval if the Planning Commission recommends approval of the variance requests. These conditions may be subject to modification depending upon the outcome at the Planning commission meeting:

1. Building Permit. That all appropriate building permits are issued before construction begins.
2. Vegetative Screening: That the vegetative screening that is proposed outside of the fence is installed according to the approved site plan for the solar garden interim use permit.
3. Lapse of Variance. If, within one (1) year after granting the variance, the work permitted is not started, the variance shall become null and void unless a petition for an extension has been approved by the Planning Commission.

Mr. Ebensperger asked for clarification in regards to whether or not the fence is in the setback of the site triangle at the intersection of the county roads. Mr. Anderson stated that the fence is proposed outside of the sight triangle. He added that if it was in the site triangle, it could only be thirty (30) inches high, but since it is outside the triangle, the height requirement does not apply. Mr. Anderson stated that the evergreen trees will also be outside the sight triangle.

Ms. Moses requested clarification on the language regarding the increase of fence height in the front yard and how that applies to the airport frontage road. Ms. Moses asked if that language needs to be included. Mr. Anderson replied that the address is Babcock Avenue (the east property line) so that would be considered the front yard and any street frontage on a lot, like a corner lot, the frontage is considered a front yard. Mr. Anderson stated that the south and east property lines are both considered front yards. The west property line along the access road to the airport is considered the rear property line. He added that a variance would not be needed for the north and west property lines, just the east and the south because the current height allowed is four (4) feet and chain link fences are not allowed.

Mr. Tienter added that City staff have not received any comments, written or otherwise, about this public hearing.

Ms. Moses made a motion to close the public hearing regarding Resolution PCR-16-05 – Variance for Minnesota Solar, LLC. Mr. Henrich seconded the motion. Motion carried 4-0.

4) New Business

a) Public Hearing – Planning Commission Resolution PCR-16-07 – Ordinance Text Amendment

Mr. Ebensperger opened the public hearing for Resolution PCR-16-07 – Ordinance Text Amendment.

Mr. Anderson informed the Commission regarding new legislation, signed into law on May 12, 2016, which allows property owners to place a mobile dwelling no larger than 300 square feet on their property. The purpose of the legislation is to allow homeowners to provide temporary/transitional housing for family members with mental and physical disabilities on-site.

Mr. Anderson stated that the legislation allows cities to opt out; however, this must be completed by means of ordinance by September 1, 2016. He added that some communities have expressed concerns with the legislation or have noted their zoning ordinances provide for these housing needs. As a result, the League of Minnesota Cities has provided a sample ordinance to opt out of the new health care dwelling law, which the City Attorney has converted to the City of Winsted's format.

Mr. Guggemos asked if the new state law would override the City's zoning codes if the City did not opt out. Mr. Anderson stated that is true if the opt out language is not included in the City's Ordinance. Mr. Anderson stated that this would make it a prohibited use and therefore not allowed, even if in the future someone asked for a conditional use permit. The ordinance could be changed at a later date to allow for these types of structures and the Planning Commission could add language that discusses sewer, water, access, etcetera that could otherwise negatively affect the neighborhood.

Mr. Tienter added that City staff have not received any comments, written or otherwise, from residents or interested parties about the public hearing.

Mr. Guggemos made a motion to close the public hearing for Resolution PCR-16-07 – Ordinance Text Amendment. Ms. Moses seconded the motion. Motion carried 4-0.

Mr. Guggemos made a motion to adopt Resolution PCR-16-07 – Ordinance Text Amendment to opt out of Temporary Family Health Care Dwelling. Mr. Henrich seconded the motion. Motion carried 4-0.

5) Other

Mr. Ollig informed the members of the Planning Commission that City staff and the City Council are busy reviewing the proposed 2017 budget.

6) Adjournment

Ms. Moses motioned to adjourn the meeting. Mr. Henrich seconded the motion. Motion carried 4-0. The meeting adjourned at 7:05 p.m.

Daniel Tienter

Daniel Tienter
City Administrator
City of Winsted

ATTEST:

Amanda Zeidler

Amanda Zeidler
Deputy City Clerk
City of Winsted