

**BELLE PLAINE PLANNING & ZONING COMMISSION  
REGULAR SESSION  
OCTOBER 10, 2016**

**1. CALL TO ORDER. 1.1. Roll Call.**

The Planning and Zoning Commission met in Regular Session on Monday, October 10, 2016 at City Hall, 218 North Meridian Street, Belle Plaine, MN. Chair Nate Hvidsten called the meeting to order at 6:30 p.m. with Commissioners Anthony Hetzel, Ashby Carter and Alternate Catherine Tarbell present. Commissioners Ashton Pankonin and Brittney Cotner were not present. Also present were Community Development Director Cynthia Smith Strack, City Engineer Joe Duncan and Council Liaison Paul Chard filling in for Henry Pressley.

**2. APPROVAL OF AGENDA.**

MOTION by Commissioner Hetzel, second by Commissioner Carter, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

**3. APPROVAL OF MINUTES.**

**3.1. Regular Session Minutes of September 12, 2016.**

MOTION by Commissioner Carter, second by Commissioner Hetzel, to approve the Regular Session Minutes of September 12, 2016 as presented. ALL VOTED AYE. MOTION CARRIED.

**3.2. Destination BP 2040 Minutes of September 14, 2016.**

MOTION by Commissioner Hetzel, second by Commissioner Carter, to approve the Destination BP 2040 Minutes of September 14, 2016. ALL VOTED AYE. MOTION CARRIED.

**4. RECOGNITION OF INVOLVED CITIZENS.**

**5. PUBLIC HEARING.**

**5.1. Variance Request. The Planning Commission will consider public comment on a request by Ryan Schmidt, 148 South Meridian Street, Belle Plaine, MN for a variance from Section 1105.07, Subd. 5(3) relating to side and rear yard setback and Section 1105.07, Subd. 5(5) relating to maximum structural coverage in the R-3 Single and Two Family Residential District. If approved the variances will allow construction of a 22' X 26' (572 sf) attached garage.**

Community Development Director Smith Strack explained that Ryan Schmidt, 148 Meridian Street South, has applied for a variance to: side yard (north) setback, rear yard (west) setback, and maximum structural coverage required under Section 1105.07, Subd. 5(3) & (5) in the R-3, Single and Two Family Residential District. If approved the variance requests would allow construction of a 572 square foot attached garage on the subject property.

Chair Hvidsten opened the public hearing at 6:40 p.m. and asked for public comment.

Pat Hanson, 144 South Meridian Street, stated that he supports the variance requests, provided a 6-foot privacy fence is installed by the applicant along the north property line.

MOTION by Commissioner Hetzel, second by Commissioner Tarbell, to close the public hearing at 6:41 p.m. ALL VOTED AYE. MOTION CARRIED.

Chair Hvidsten noted that the applicant's lot is under-sized at 5,600 square feet and commented that the placement of the garage preserves the aesthetics of the turn-of-the-century house. Commissioner Carter

asked why the applicant did not plan to build the garage in such a way to avoid the rear yard variance. Mr. Schmidt replied the location of the existing bedroom window of the house prohibits the garage from being constructed there. Commissioner Carter suggested a smaller garage to avoid the variances. Mr. Schmidt replied the width allows for two cars to enter the garage comfortably. Anything smaller would cause a tight fit. Council Liaison Chard commented the Schmidt home is a very old structure and located on a small lot. He cautioned the Commission on allowing variances as more residents will make similar requests. Council Liaison Chard commented that although variances are needed, it appears the garage will fit nicely on the lot and complement the house. Commissioner Carter agreed. Commissioner Hetzel asked if there was a fire hazard concern with the close proximity of the proposed garage with existing house and neighboring properties. Community Development Director Smith Strack explained that the applicant must meet State Building Code requirements regarding fire walls. Commissioner Carter commented that he would support the variance request with the condition that there be no utility sheds on the property. Community Development Director Smith Strack noted that requirement is already listed as a contingency on the proposed resolution.

**5.1.1. Resolution PZ 16-019 Recommendation on Variances Relating to Side and Rear Yard Setback and Maximum Structural Coverage at 148 South Meridian Street.**

MOTION by Commissioner Carter, second by Commissioner Tarbell, to approve Resolution PZ 16-019 Recommending Approval of Variances Relating to Side and Rear Yard Setback and Maximum Structural Coverage at 148 South Meridian Street, with the added condition that a 6-foot privacy fence be installed along the north property line. ALL VOTED AYE. MOTION CARRIED.

**5.2. Interim Use Permit – Solar Energy System. The Planning Commission will consider public comment on a request for an interim use permit as requested by DG Minnesota CSG 4, LLC and property owners: Kim Devine-Johnson, Tammy L. Devine, Christopher Johnson, and Michael C. Carlson to establish a ground mounted utility scale solar energy system at a portion of the property addressed 1300 South Street West. Also considered will be a variance request to a requirement all off-site power lines be underground. If approved, the requests will allow a 5MW solar garden on approximately 40 acres of property.**

Community Development Director Smith Strack provided a brief overview of the proposed five megawatt utility scale solar energy system including a ground-mounted solar energy array and associated cabling, inverters, transformers, and other equipment. The project is proposed for a portion of a 43.29-acre parcel owned by the Devine – Johnson Family to be accessed by private drive from South Street West. The applicant is DG Minnesota CSG 4, LLC's its parent company is NextEra Energy. Mr. Toby Butterfield is the project representative.

The proposed use is allowed in the A-2 Rural Residential District provided an interim use permit is issued and specific standards are achieved. The Applicant/Owners have filed a concurrent variance request to allow above ground pole mounted transmission lines and poles. The Applicant/Owners represent the presence of steep slopes necessitate a variance in favor of overhead lines as opposed to negatively impacting steep slopes. The Applicants propose overhead connection from the SES to the utility transmission line adjacent to Scott CSAH 6. The proposed location of the connection lies within the Scott County WMO bluff overlay area and has a contour change of over 30 feet in elevation over an approximate 80-foot linear length.

The solar field is proposed to be encompassed by a six-foot chain link fence topped with one foot of barbed wire. The SES site has been approved for annexation to the City by both the Blakeley Town Board and the City Council. An administrative lot split has been completed, deeds filed, and recording is pending. Upon recording of the lot split the subject property annexation will be submitted to the Minnesota Office of Administrative Hearings for approval.

Lot setback, structure height, and lot size/width requirements are met. The property is not located within shoreland or flood plain. The subject parcel doesn't contain wetlands or easements. Steep slopes are located adjacent to the subject site including where proposed transmission lines would be located. Interim use permits differ from conditional use permits in that an expiration date may be assigned. The Applicant is proposing an IUP term of 35 years. The signed lease with the Devine's carries a 25-year term with an option to extend an additional ten years for a total of 35 years.

A PowerPoint presentation by the Applicant/Owners Kim Devine Johnson, Pat Wier of TruNorth Solar, and Toby Butterfield of NextEra Energy. The presentation displayed an aerial photo and the site plan. Access to the site was explained, along with the drainage, utility poles, topography and screening. The site will be enclosed by a fence. A minimal amount of trees will be removed. Ms. Kim Devine Johnson expressed her family's interest in conservation and believes this solar energy project provides great environmental benefits.

Commissioner Tarbell expressed concern about construction traffic and the relative close proximity of truck traffic during construction. Strack noted a communications plan for area property owners was contemplated as a condition of interim use permit issuance should approval be recommended.

Chair Hvidsten opened the public hearing at 7:42 p.m. and asked for public comment.

John Edberg, 4 Woodridge Drive, explained that the existing screening mentioned is due to trees that are on adjacent properties.

Ed Townsend, 138 South Market Street, adjacent property owner, stated he was not opposed to the project, but expressed concern for potential expansion of the solar energy site. He believes the property is favorable for residential housing. He did not want to see the solar project expanded beyond this project and absorb more acreage, which would inhibit residential growth. Mr. Townsend suggested the construction vehicles enter from the north side of the site, along County Road 6, rather than from South Street.

Community Development Director Smith Strack acknowledged receipt of written comments from Colleen Hollinger and Rob Davis, both encouraging the City to ensure there is adequate planting of pollinators and other conservation measures. Tammy Devine, co-landowner, wrote in support of the solar project.

MOTION by Commissioner Hetzel, second by Commissioner Tarbell, to close the public hearing at 7:50 p.m. ALL VOTED AYE. MOTION CARRIED.

Commissioner Hetzel inquired about the vegetation plantings and the maintenance of noxious weeds. Mr. Butterfield explained the site will be monitored and weed control measures and inspections of the operation are planned. Approximately one acre of pollinators will be planted along the perimeter of the site. Commissioner Carter inquired about the screening located on the adjacent property, rather than on the project site. Mr. Butterfield explained that there is a ridgeline of trees to the east. If that property develops, NextERA will be required to provide screening, according to the condition listed in the proposed resolution. Chair Hvidsten asked about the 11 points listed by the City Engineer. City Engineer Duncan explained the developer will need to meet these requirements as the project moves forward. Mr. Butterfield explained that it is not feasible to route traffic and access the site from County Road 6 due to bluffs being present.

#### **5.2.1. Resolution PZ 16-020 Recommending Approval of a Variance to Allow Above Ground Power Line.**

MOTION by Commissioner Hvidsten, second by Commissioner Hetzel, to adopt Resolution PZ 16-020 Recommending Approval of Variance to Allow Above Ground Power Line. ALL VOTED AYE. MOTION CARRIED.

#### **5.2.2. Resolution PZ 16-021 Recommending Approval of Interim Use Permit for Devine Property.**

Community Development Director Smith Strack recommended adding verbiage to condition #9, stating, "Unless otherwise approved by Scott County." Commissioner Hetzel recommended including the reference by Commissioner Tarbell to protect the oak trees along the access route as a condition.

MOTION by Commissioner Hvidsten, second by Commissioner Tarbell, to adopt Resolution PZ 16-021 Recommending Approval of Interim Use Permit for Devine Property, with verbiage added to condition #9, stating "Unless otherwise approved by Scott County." Also, the addition of condition #16, stating the specific protection of two large oak trees located on the south side of the access drive adjacent to a three-season cabin through soil aeration, slight relocation of the service drive, or other means as directed by an arborist or forester. ALL VOTED AYE. MOTION CARRIED.

### **6. BUSINESS.**

#### **6.1. Update on Bluff Preservation Code Redraft.**

Community Development Director Smith Strack explained the Planning Commission has reviewed revised code language relating to bluff preservation at the previous two meetings. The revised Section 1109.06 was attached to Community Development Director Smith Strack's memo to the Commissioners' final review.

MOTION by Commissioner Hetzel, second by Commissioner Tarbell, to call for a public hearing at the November 14, 2016 Planning Commission meeting on a proposed ordinance amendment pertaining to Bluff Preservation, Section 1109.06. ALL VOTED AYE. MOTION CARRIED.

### **7. ADMINISTRATIVE REPORTS.**

#### **7.1. Commissioner Comments.**

Commissioner Carter inquired about the status of the used car lot located on Enterprise Drive. Community Development Director Smith Strack the property is subject to a contract for deed. Under state law all contracts must now be recorded against affected parcels. The individual purchasing the site on contract reports difficulty in establishing clear title right-of-way issues. Commissioner Hetzel acknowledged the diligent work of the Planning Commission in bringing the solar energy project to fruition. Council Liaison Chard expressed concern for the South Street improvement, a required restoration of a rural roadway in conjunction with the solar use. He questioned whether the Developer should be required to build an urban section for the 325 feet of South Street being impacted by construction.

#### **7.2. Director's Report.**

Community Development Director Smith Strack provided highlights of the Director's Report. She invited the Commissioners to a roundtable discussion on millennium housing.

#### **7.3. Upcoming Meetings.**

##### **1. Next Regular Meeting, 6:30 p.m., Monday, November 14, 2016.**

The Commissioners were reminded of the upcoming meeting as listed.

**8. ADJOURNMENT.**

MOTION by Commissioner Carter, second by Commissioner Hetzel, to adjourn at 8:28 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings  
Recording Secretary