

**CLAY COUNTY PLANNING COMMISSION MINUTES  
7:00 PM TUESDAY, DECEMBER 17<sup>TH</sup>, 2024  
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE**

**Members Present:** Ezra Baer, Brad Eldred, Curt Stubstad, Joel Hildebrandt, David Steichen, Sebastian McDougall, Ashley Heng, Laura Johnson

**Members Absent:** Kurt Skjerven, Jenny Mongeau, Brent Berg

**Others Present:** Matt Jacobson, Erika Franck, Brian Melton, Darryl Johnk, Tammy Johnk, Cory Heng, Rebecca Guest, Mahmuod Othman of Novel Energy (online), Suzanne Rose of Novel Energy (online)

**ROLL CALL:**

Attendance was recorded by Chair Ezra Baer and the meeting was called to order at 7:00 PM.

**APPROVAL OF AGENDA:**

**On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Agenda was approved.**

**APPROVAL OF NOVEMBER 19TH, 2024:**

**On Motion by Sebastian McDougall, seconded by Ashley Heng, and unanimously carried, the November 19th, 2024 Minutes were approved.**

**CITIZENS TO BE HEARD:**

There were no citizens wanting to speak about any items not on the Agenda.

**PUBLIC HEARINGS:**

**NOVEL ENERGY SOLUTIONS, LLC – REQUEST FOR CONDITIONAL USE PERMIT**

The applicant is seeking a conditional use permit for a 1 mega-watt Community Solar Garden on parcel 06.008.2600, in the W1/2 NW1/4, Section 8, Township 138N, Range 47W, Elmwood Township.

**On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Planning Commission opened the public hearing.**

Director Matt Jacobson advised that this is a request by Novel Energy Solutions for a 1 Mega-watt community solar garden on property owned by Harlan Poehls. The property is in Elmwood Township on the northeast side of Sabin, MN. This would be approximately 6.64 acres of a 79.14 acer parcel. The land use is currently agricultural. The base zoning is Agricultural General with an overlay zoning of Resource Protection: Wellhead Protection (RP-WH).

Subscriptions would be accessible through Xcel Energy. The site selection was pertinent to the following criteria: level terrain, amount of sunlight, proximity to electrical infrastructure, landowner participation. This community solar garden would interconnect to the grid through Xcel Energy.

Applicant advises construction would begin in spring 2025 and would be completed before winter 2025. Construction components would include solar arrays, inverter, 200 sq ft equipment pad, 6-foot chain link security fencing and establishment of beneficial habitat/pollinator vegetation.

This location has access to CSAH 11. There will be continuous remote monitoring of the project, including 2 yearly equipment inspections. Project lifespan is projected at 30 years and can be extended by new landowner agreements and equipment upgrades. The site will have vegetation management, stormwater management, fire prevention and decommissioning plans.

Highway spacing considerations were reviewed and current access is 120 feet from the nearest access. The site would need to meet current access requirements, which would be a minimum of 160 feet from the nearest access.

Considerations for this project include meeting the County Access Management Standards and the project taking 6.5 acres of prime farmland out of production. Current prime farmland, or prime farmland if drained, acreage in Clay County is at 451,840, or 67% of the County.

Comprehensive Plan Goals and Objectives reviewed include:

Agriculture:

1. Support the long-term protection of the county's strong and diverse agricultural economy.
  - c. Ensure that all new development is compatible with the character and quality of the County's agricultural areas.
1. Recognize and Protect the Agricultural Character of Clay County.
  - b. Protect prime agricultural soils from commercial, industrial, and residential development.

Land Use – Commercial and Industrial:

1. Encourage commercial and industrial development that is in harmony with the agricultural and rural character of Clay County.
  - b. Avoid or mitigate against commercial and industrial development in and near environmentally sensitive areas.
  - c. Avoid or mitigate against commercial and industrial development that increases the potential for land use conflicts with rural residential or agricultural uses.

Natural Resources & the Environment – Prairies and Woodlands:

2. Grow and restore prairie and woodland areas in Clay County for the benefit and enjoyment of Clay County businesses, residents, and visitors.
  - a. Encourage agricultural, commercial, industrial, and residential development to establish prairie and/or woodland areas on properties to provide ecosystem services such as erosion and flood control, through assessment, permitting, tax, and zoning programs and incentives.

Mahmoud Othman was present online and asked if there were any questions. They were asked if the farmer was in agreement with the placement. Curt Stubstad advised that he is currently farming this property and the location is a good fit.

Darryl Johnk, Supervisor of Elmwood Township Board, asked what was being planted for vegetation. Mahmoud Othman advised that they currently plant native seeds for pollinators and after 25 to 30 years that will improve the soil. Mr. Johnk asked about weed control management as he feels this is a concern for the area residents. Director Jacobson advised that the companies typically provide a plan of the seed mix, and that is also run past Soil and Water Conservation District. Director Jacobson also shared that there is a requirement of a surety bond of 125% of the cost to establish a native vegetation cover, which is checked after 2 years. Chair Baer pointed out that part of the proposed management plan by the Applicant is to check the vegetation 2 times per year. Mr. Johnk also confirmed that the solar project will be enclosed by fence.

**On motion by Sebastian McDougall, seconded by Curt Stubstad, and unanimously carried, the Planning Commission closed the public hearing.**

**The Findings of Fact and Order were addressed by the Planning Commission as they pertain to the requested Permit. Any items of concern may be addressed through Conditions.**

While reviewing Findings of Fact, Ashley Heng stated that she disagreed with Item 1 that this use does not detract from the aesthetic views and asked to have that removed as she believes this would be a detraction from the normal aesthetics of the surrounding landscape.

While reviewing Findings of Fact and Order, Joel Hildebrandt was in disagreement with Item #11 as he feels that this is in conflict with the Code by taking prime agricultural land out of production for over 30 years. Ashley Heng stated her agreement of Mr. Hildebrandt's opinion.

Minimum staff recommended Conditions:

1. Applicant must abide by the provisions of the Clay County Land Development Code and Renewable Energy Ordinance.
2. Applicant shall obtain all applicable Local/State/Federal permits/reviews (i.e. Storm Water Pollution Protection Plan (MPCA), WCA review, etc.) before any construction and shall provide copies of them to the Planning Office.
3. Project must meet Clay County Access Management Standards and obtain an Access Permit from the Clay County Highway Department.
4. Project owner/operator must provide a decommissioning surety bond, cash deposit with Clay County, or letter of credit for \$50,000 per megawatt.
5. Project must meet the Minnesota Board of Water and Soil Resources Beneficial Habitat Standards as outlined in MN Statutes 216B.1642.
6. Project owner/operator must provide a surety bond, cash deposit with Clay County, or Letter of Credit for 125% of the cost of establishing native plant cover on the project site.
7. Project owner/operator must complete construction of the Community Solar Garden by December 31, 2027.
8. Project owner/operator must control all noxious weeds.

Chair Baer asked Curt Stubstad if he felt he should vote on this item, as he is currently renting the land for farming. Mr. Stubstad advised he would be abstaining on the vote.

**On motion by Brad Eldred, seconded by Dave Steichen, the Planning Commission had a non-unanimous vote. Roll call vote concluded with YES: Brad Eldred, Laura Johnson, Ezra Baer, Dave Steichen, Sebastian McDougall. OPPOSED: Ashley Heng and Joel Hildebrandt. The request was GRANTED.**

#### **CLAY COUNTY LAND DEVELOPMENT ORDINANCE UPDATE**

The Planning Commission will review and discuss draft Chapters 1-4 of the Clay County Land Development Ordinance Update. Members of the public are encouraged to provide comment during the public hearing or by contacting the Planning Office by phone: 218-299-5005 or email: [planning@claycountymn.gov](mailto:planning@claycountymn.gov) prior to the public hearing. Draft Chapters 1-4 will be available for review online at <https://claycountymn.gov/1805/Land-Development-Code-Update>.

**On motion by Sebastian McDougall, seconded by Ashley Heng, and unanimously carried, the Planning Commission opened the public hearing.**

Chapters 1 through 4 have been received and are under review. Director Jacobson advised that Chapters 3 and 4 are rather lengthy and would like to review the key changes made. A historical timeline of the revision review was given.

The following is a summary of key changes by chapter:

#### Chapter 1: Introductory Provisions

1. Created permitting exemption for accessory structures with a foundation up to 144 sf and structures without a foundation up to 400 sf that are not located in floodplain or shoreland districts. Development must adhere to building setback standards.
2. Residential Real Estate and Seasonal Recreational Exemptions. Residential property (homestead, non-homestead, and seasonal) can be replaced or repaired within the original building footprint pursuant to MN statute.

#### Chapter 2: Base Districts

1. Eliminated conditional use subdivision and major subdivision on wooded/marginal soils. Minor subdivision renamed to administrative subdivision. New major subdivision types include standard subdivision, cluster subdivision, and agricultural or natural resources subdivision.

#### Chapter 3: Overlay Districts

1. Updated Shoreland and Floodplain District sections to better match State Floodplain and Shoreland Rules. Added General Use District to section (created in 2007 but never added to Development Ordinance).
2. Update Urban Expansion District (Tier 1 and 2). Septic holding tanks are now allowed in Tier 2. Clarified some discrepancies found in current language.

#### Chapter 4. Use Regulations

1. Reformatted Use Table
  - a. New Uses Added: Agricultural Tourism, Cannabis or Lower-Potency Hemp Use, Commercial Shoreland Planned Unit Development, Light Industrial, Grain Bins, Residential Shoreland Planned Unit Development, Shoreland Forest Land Conversion, Shop Condo, Water-Oriented Structure
  - b. Modified Uses: Accessory Above-ground storage of Petroleum Products, Accessory Dwelling Unit, Accessory Garage, Animal Feedlots, Commercial Agricultural Uses, Commercial Entertainment Uses, Farmstead Ring Levee, Gas Station/Convenience Store, Golf Course/Driving Range, Intentional Community, Landscaping, Meteorological Towers, Nursery and Building Materials Sales, Placement of Fill, Picnic Ground, Precast Concrete Plant, Religious Institutions, Restaurant, Retreat Center or Wedding Venue, Shooting/Archery Range, Shoreland Controlled Access Lot, Solar Farm, Supervised Living Facility (Under 6 Residents), Vehicle and Equipment Sales, Water-Dependent Use, Wind Energy Conversion System (Tiers 1-3)
  - c. Uses Removed: Outdoor Recreation Facilities – Non-motorized, Playhouse
2. Use Regulations
  - a. Animal Feedlots: Exempt under 10 animal units, update to match Minnesota Feedlot Rules.
  - b. Commercial Uses: Added nuisance or trespass disclaimer and detailed site plan requirements.
  - c. Extractive Uses/Batch Plants: Modified setbacks, removed variance requirements for encroachment into property line setback if written approval received from adjacent property owner and Planning Department.
  - d. Home Occupations: Increased employee and size limit.
  - e. Solar: Modernized section to match State Model Solar Ordinance.
  - f. Wind: Modernized section to match State Model Wind Ordinance.
  - g. Keeping of Farm Animals on Residential Lots: Updated for clarity. Allow pro-rated animal units on lots smaller than 2-acre minimum. Added additional well and residential setbacks.
  - h. Vehicle Storage: Increased limit from 2 to 4. Generalize from automobiles to vehicles. Removed fence screening requirement.

- i. Accessory Dwelling Units: New standards, allowed by right, do not count towards residential density limits.

Director Jacobson advised several of the changes were changed to reflect community expectations or to conform more closely to current State requirements as County regulation is currently more restrictive than the State.

Director Jacobson also pointed out that the Use Table has been set up to be easier to understand and navigate, as this is a highly used document within the Ordinance.

Darryl Johnk expressed concern regarding advanced notice on the public hearings. Director Jacobson advised that notices are sent out for each hearing in compliance with the State regulations and requirements. Additionally, these notice lists are kept as part of the file and the public is welcome to review the Public Hearing Notice list for any hearing.

**On motion by Joel Hildebrandt, seconded by Laura Johnson, and unanimously carried, the Planning Commission closed the public hearing.**

**RECOGNITION OF EZRA BAER'S SERVICE ON THE BOARD OF ADJUSTMENT AND PLANNING COMMISSION:**

Recognition and acknowledgement were given to Ezra Baer in observance of his dedication to Clay County. Chair Baer began his service on the Board of Adjustment in 2018, was appointed to also serve on the Planning Commission in 2021 and was elected as Chair of the Planning Commission February 2022. Mr. Baer has now been elected as a Clay County Commissioner. Mr. Baer advised he has enjoyed working on these two boards and thanked those he has worked with.

**ELECTION OF OFFICERS FEBRUARY 2025:**

Due to Ezra Baer leaving the Planning Commission to begin on the County Commission, Vice Chair Joel Hildebrandt will chair the January 2025 meeting. New officers will be elected at the February 18, 2025 meeting.

**UNFINISHED BUSINESS:**

None.

**NEW BUSINESS:**

None.

**ADJOURNMENT:**

**On motion by Ashley Heng, seconded by Dave Steichen, and unanimously approved, the meeting adjourned at 7:56 PM.**

  
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Laura Johnson, Planning Commission Secretary