

Minutes of the Meeting of the Avon Township Planning Commission

June 28, 2017

Avon Township Hall (16881 Queens Road, Avon)

Call to Order: Chairman Huston called to order the regular meeting of the Avon Township Planning Commission at 7:30 PM in the Main Chamber of the Town Hall.

Pledge: The Pledge of Allegiance was recited.

Roll Call: Present – LeRoy Gondringer, Gerry Kremers, Will Huston, Ken Mergen, and Stephen Saupe. Also in attendance: Mike Linn.

Action Item: Huston announced he had been appointed to replace Richard Bresnahan as Supervisor, which meant he needed to resign from his position on the Planning Commission. Vice Chair Gondringer then presided over the meeting. Gondringer thanked Huston for his service and wished him well in his new position.

Approval of Agenda: A discussion of working with Stearns County was added to the agenda. Mergen moved to approve the agenda as amended. Kremers second. All in favor. Motion carried.

Minutes: Mergen moved to approve the minutes from the May 31, 2017 meeting as presented. Kremers second. All in favor. Motion carried.

Site Inspection: At 6:30 PM members of the Avon Township Planning Commission (Huston, Gondringer, Kremers, Mergen, Saupe) and Board of Supervisors (Linn, Merdan), met to inspect the proposed site for two 1 MW solar energy conversion farms on the property of Brian & Linda Gertken, 34206 Smiley Drive (Avon, MN). In addition, about a dozen members of the public were in attendance. Mr. Chuck Beisner, Sunrise Energy Ventures, described the project and showed the proposed location for the panels. The group also viewed the proposed site from the property of neighbor Mr. Dennis Bogard.

Public Hearings: At approximately 7:35 PM Gondringer reopened the two public hearings which had been continued from the previous (May 31, 2017) meeting. Mr. Beisner provided a brief overview of the project and stated that a screening plan had been developed for the eastern edge of the project.

Mr. Dennis Bogard stated he was “totally against” the project because of the impact on his view and because he said his property value will decrease. He is the closest neighbor – his home is about 500 feet from the easternmost edge of the panels. Ms. Lila Tschida stated her concerns about the health effects of the panels and provided copies of three documents she cited to support her claims. She also expressed her concerns about the financial stability of the companies involved in the project. Ms. Tschida inquired about how much grading would be necessary and questioned why she had received a letter from Xcel to join the solar garden (*neighbors are given the opportunity to subscribe to the garden*). In response, Mr. Beisner said that: (a) a decommissioning plan is in place if the companies go out of business; (b) there will be “minimal” site grading but that it should not effect where storm water goes. The County will approve a storm water runoff plan; and (c) he cited a study in Corcoran (MN) that showed no effect on appraised values. The Stearns County Assessor says there is not enough data to determine how property values might be affected by a solar garden. Kremers noted that when the Saint John’s solar garden was permitted the health issue was considered but there was no solid evidence to support the claims. Ms. Tschida inquired whether the Town would make any money from the projects. Gondringer responded that it was likely, but this would not influence the decision and that if the Town received any revenue from the project the ultimate effect would likely be to lower taxes.

No other comments were received. Mergen moved to close the public hearing. Kremers second. All in favor. Motion carried. Mergen questioned whether the panels could be moved further away from the eastern property line. Mr. Beisner was unsure but would raise the issue with project engineers. A resident requested that the company maintain and fix Smiley Drive if it is damaged during construction. The Planning Commission considered this a private matter between the residents that live on the road and the company. Fourteen conditions were proposed for each project (*see appended Conditional Use Permit Recommendation documents*). The Findings of Facts were examined for both projects (*see appended Findings of Facts documents*).

Kremers moved to recommend to the Supervisors approval of a Conditional Use Permit for FastSun LLC (*the westernmost series of solar panels*) to build and operate a solar garden on the property of Brian & Linda Gertken (34206 Smiley Drive, Avon, MN) with the fourteen conditions provided in the appended recommendation form. Saupe second. All in favor. Motion carried.

Kremers moved to recommend to the Supervisors approval of a Conditional Use Permit for Stearns Community Solar One LLC (*the easternmost series of solar panels*) to build and operate a solar garden on the property of Brian & Linda Gertken (34206 Smiley Drive, Avon, MN) with the fourteen conditions provided in the appended recommendation form. Saupe second. Two in favor (Kremers, Saupe). Two opposed (Gondringer, Merdan). Motion tied.

Scheduled Business:

1. **Scepaniak Variance** – Mr. Jacob Scepaniak appeared to request a variance to construct an addition to his home including a garage 31 feet from the edge of the Orchid Court. He states his addition will be no closer to the road than his neighbor. He will also likely require a County variance because he wants to build 8 feet from the side yard, which is 2 feet closer than permitted by ordinance. Mergen moved to recommend to the Supervisors to set a public hearing for a variance for Mr. Scepaniak to construct an addition to his home closer to the road than is permitted by current ordinance. Kremers second. All in favor. Motion carried.
2. **Bullert Zoning Request** – Dan & Marie Bullert appeared to request rezoning their property (PID 03.01551.0006; 18703 Two Rivers Road) from A40 to R5. Mergen moved to recommend to the Supervisors approval of the zoning change to R5 because it is consistent with surrounding properties. Kremers second. All in favor. Motion carried.
3. **Nuisance Vehicle Complaint** – a resident called to complain about the excessive vehicles (13) parked at a residence on Plum Hill Lane. The Clerk will seek options from the County.
4. **Website** – the Town website has finally been restored. The Town has changed internet providers from BlueLink to Yerbua, re-registered the Domain name and made contact details private, and rebuilt the entire site. Provide any feedback on the website to the Town Clerk.
5. **Enterprise** – suggested topics include: alerting Town officials if brush needs to be trimmed, noxious weed control, and the solar garden proposal.
6. **Stearns County Permitting** – there was a discussion about letting Stearns County handle Conditional Use (CUP) and Interim Use (IUP) permits. The County has expressed a willingness to do this. The advantages include: (a) the County better knows the rules and regulations; (b) residents would only have one place to go to obtain a permit; (c) there would be less confusion for residents about where

to obtain a particular permit; and (d) it reduces the Township workload. The disadvantages: (a) a resident would need to go to the County (a longer distance) to obtain a permit; (b) it might add time to the project; and (c) it gives up some Township control. This topic will be further addressed at the next meeting.

Other & Old Business: *none*

Announcements/Reports:

1. The Stearns County Board of Adjustment approved the request by the Raden’s to construct a septic/drainfield closer to a lake than is currently permitted by ordinance.
2. County Ditch 25 hearings – the County is considering clearing out the entire ditch. The DNR apparently has some concerns. The section from Kepper Lake will be included in phase 1. Staff were instructed to come up with a Findings of Facts.

Adjournment: Mergen moved to adjourn the meeting at 9:45 PM. Saupe second. Three in favor (Kremers left early). Motion carried.

Next Meeting: The next meeting is July 26, 2017 at 7:30 PM.

Respectfully submitted,
Stephen G. Saupe Clerk

Clerk signature: _____ date: _____

Approval:

_____ date: _____
Planning Commission Chair – signature

Planning Commission Chair – print

CUP & IUP Findings of Facts

Name: FastSun3 Solar Garden **Date:** June 28, 2017 **Type:** CUP

Request: Pursuant to Section 6.51 – Solar Energy Systems of Stearns County Ordinance 439 to build, own and operate a solar farm. Findings shall be made in either granting or denying an applicant's proposal. Findings should reference specific sections of applicable ordinances. The following are examples of findings, but are not limited to these areas.

1. Is the proposal consistent with existing Township ordinances? Why or why not? Specify the applicable section of the ordinance: *6.51 of County 439 Ordinance.*
Yes it is consistent.
2. Are there any other standards, rules or requirements that the proposal must meet?
Yes, there are 14 stated conditions.
3. Is the proposal compatible with the present and/or future land use in the area? Why or why not? Will any scenic views be impacted by the proposed use?
Yes. At least one neighbor has stated it will have a major impact on his scenic view. This proposal is an allowed use in the zoning district.
4. Is screening or separation distance necessary? If so, describe.
Yes. The ordinance requires 200 feet from the nearest residence. This proposal will be significantly more than that. In addition, a vegetative screening plan along the eastern side of the project is proposed.
5. Are there any potential environmental impacts (ground and surface water, air quality, wellhead protection area) and, if so, how are they addressed?
No. A storm water plan acceptable to the Stearns County has been prepared.
6. Will the proposal affect the property values of the area in which it is proposed?
Unknown, though it might have a potentially negative effect.
7. Will the proposal generate excessive traffic or impact the safety of area roads?
Not once construction is completed.
8. Will the proposal affect the general health, safety and welfare of residents?
No, though a neighbor suggests otherwise.
9. Does the proposal conform to the goals and objectives of the Township Comprehensive Plan? Explain.
Yes. Goal 2, objective 4 of the Comprehensive Plan encourages renewal energy systems.
10. Will the proposal negatively impact public services and facilities such as schools, parks, streets, or utilities? What potential is there for the proposal to overburden the service capacity? How are these issues addressed by the proposal?
No / None / Not applicable
11. Is cleanup/reclamation required and has applicant provided financial assurance if so?
Yes / Yes
12. Other issues pertinent to this proposal?
There are concerns about safety to users of the Wobegon Trail and damage to the trail during construction. There is also a concern about the visual effect of the project.

PLANNING COMMISSION OF AVON TOWNSHIP CONDITIONAL USE PERMIT RECOMMENDATION

**Stearns County
State of Minnesota
IN RE: Variance Request**

Administrative Information

FastSun3, LLC has applied for a conditional use permit to construct a one-megawatt AC solar energy conversion farm on the property of Brian and Linda Gertken, 34206 Smiley Drive, Avon, MN (PID 03.00935.0000). This project, if approved, will consist of approximately 4,000 panels and occupy about six acres.

Property Legal Description: *(append if necessary)*

Parcel ID#: 03.00935.0000
Section 20 **Township** 125 **Range** 030

On June 28, 2017 the Planning Commission of Avon Township met and held a public hearing to consider this Conditional Use Permit request. Said public hearing was duly noticed by publication, posting and mail. Based on the application and evidence received at the above said hearing the Planning Commission makes the following findings of fact and recommendation.

FINDINGS OF FACT

1. The applicant is requesting a Conditional Use Permit.
2. The legal description of the property is as above.
3. The property is currently zoned A40.
4. The Planning Commission has considered the findings, which are appended.

RECOMMENDATION

The Planning Commission of Avon Township unanimously recommends to the Board of Supervisors of Avon Township that the application of FastSun3, LLC for a Conditional Use Permit to construct a 1 MW solar field on the Gertken property be:

 X Approved Disapproved

The Planning Commission recommends that the approval be conditioned on the following stipulations:

1. The company will repair the Lake Wobegon Trail if it is damaged during construction.
2. Stop signs will be erected on Smiley Drive on either side of the Lake Wobegon Trail during construction.
3. With the approval of the Stearns County Parks Department, signs will be placed on the Lake Wobegon Trail to alert users to truck traffic ahead.
4. The trees on the south side of the project along the Lake Wobegon Trail will be maintained as a screen. Any cutting of trees must be acceptable to the Stearns County Parks Department.
5. The project meets all application Stearns County guidelines including those for solar farm performance;

- 6. Decommissioning shall be completed in accordance with the plan submitted in the event the solar panels are not in use for 12 consecutive months.
- 7. A financial guarantee is required in the form of a letter of credit, cash deposit, or bond in favor of the County equal to 125% of the costs to meet the requirements of the decommissioning plan.
- 8. The applicant shall install and maintain ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642 and guidance as set by the Minnesota Board of Water and Soil Resources. The final seed mix shall be approved the by the Township.
- 9. A financial guarantee is required in the form of a letter of credit, cash deposit or bond in favor of the County equal to 125% of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established in accordance with the requirements set forth in Ord. 439.
- 10. Site layout shall adhere to proposed configuration submitted unless specific approval is provided by Avon Township. Major modifications may require review by the Avon Township Planning Commission and Board of Supervisors.
- 11. The project will follow the Stearns County Storm Water Management rules and requirements.
- 12. Noxious weeds are controlled in the project area.
- 13. A landscaping and screening plan acceptable to the Avon Township Board of Supervisors will be provided.
- 14. The company will provide to the Township the contact information for the responsible party once the project is completed.

Approval

Avon Township Planning Commission, Chair

Signature: _____

Print: _____

Date: _____

{Township Seal}

ATTEST: _____

Stephen G. Saupe, Clerk

Date: _____

CUP & IUP Findings of Facts

Name: Stearns Community Solar One LLC **Date:** June 28, 2017 **Type:** CUP

Request: Pursuant to Section 6.51 – Solar Energy Systems of Stearns County Ordinance 439 to build, own and operate a solar farm. Findings shall be made in either granting or denying an applicant's proposal. Findings should reference specific sections of applicable ordinances. The following are examples of findings, but are not limited to these areas.

1. Is the proposal consistent with existing Township ordinances? Why or why not? Specify the applicable section of the ordinance: *6.51 of County 439 Ordinance.*
Yes it is consistent.
2. Are there any other standards, rules or requirements that the proposal must meet?
Yes, there are 14 stated conditions.
3. Is the proposal compatible with the present and/or future land use in the area? Why or why not? Will any scenic views be impacted by the proposed use?
Yes. At least one neighbor has stated it will have a major impact on his scenic view. This proposal is an allowed use in the zoning district.
4. Is screening or separation distance necessary? If so, describe.
Yes. The ordinance requires 200 feet from the nearest residence. This proposal will be significantly more than that. In addition, a vegetative screening plan along the eastern side of the project is proposed.
5. Are there any potential environmental impacts (ground and surface water, air quality, wellhead protection area) and, if so, how are they addressed?
No. A storm water plan acceptable to the Stearns County has been prepared.
6. Will the proposal affect the property values of the area in which it is proposed?
Unknown, though it might have a potentially negative effect.
7. Will the proposal generate excessive traffic or impact the safety of area roads?
Not once construction is completed.
8. Will the proposal affect the general health, safety and welfare of residents?
No, though a neighbor suggests otherwise.
9. Does the proposal conform to the goals and objectives of the Township Comprehensive Plan? Explain.
Yes. Goal 2, objective 4 of the Comprehensive Plan encourages renewal energy systems.
10. Will the proposal negatively impact public services and facilities such as schools, parks, streets, or utilities? What potential is there for the proposal to overburden the service capacity? How are these issues addressed by the proposal?
No / None / Not applicable
11. Is cleanup/reclamation required and has applicant provided financial assurance if so?
Yes / Yes
12. Other issues pertinent to this proposal?
There are concerns about safety to users of the Wobegon Trail and damage to the trail during construction. There is also a concern about the visual effect of the project.

PLANNING COMMISSION OF AVON TOWNSHIP CONDITIONAL USE PERMIT RECOMMENDATION

**Stearns County
State of Minnesota
IN RE: Variance Request**

Administrative Information

Stearns Community Solar One, LLC has applied for a conditional use permit to construct a one-megawatt AC solar energy conversion farm on the property of Brian and Linda Gertken, 34206 Smiley Drive, Avon, MN (PID 03.00935.0000). This project, if approved, will consist of approximately 4,000 panels and occupy about six acres.

Property Legal Description: *(append if necessary)*

Parcel ID#: 03.00935.0000
Section 20 **Township** 125 **Range** 030

On June 28, 2017 the Planning Commission of Avon Township met and held a public hearing to consider this Conditional Use Permit request. Said public hearing was duly noticed by publication, posting and mail. Based on the application and evidence received at the above said hearing the Planning Commission makes the following findings of fact and recommendation.

FINDINGS OF FACT

5. The applicant is requesting a Conditional Use Permit.
6. The legal description of the property is as above.
7. The property is currently zoned A40.
8. The Planning Commission has considered the findings, which are appended.

RECOMMENDATION

The Planning Commission of Avon Township makes no recommendation to the Board of Supervisors of Avon Township concerning the application of Stearns Community Solar One, LLC for a Conditional Use Permit. The Board had a split vote with two in favor (Kremers, Saupe) and two opposed (Gondringer, Mergen).

The Planning Commission recommends that the approval be conditioned on the following stipulations:

1. The company will repair the Lake Wobegon Trail if it is damaged during construction.
2. Stop signs will be erected on Smiley Drive on either side of the Lake Wobegon Trail during construction.
3. With the approval of the Stearns County Parks Department, signs will be placed on the Lake Wobegon Trail to alert users to truck traffic ahead.
4. The trees on the south side of the project along the Lake Wobegon Trail will be maintained as a screen. Any cutting of trees must be acceptable to the Stearns County Parks Department.
5. The project meets all application Stearns County guidelines including those for solar farm performance;

- 6. Decommissioning shall be completed in accordance with the plan submitted in the event the solar panels are not in use for 12 consecutive months.
- 7. A financial guarantee is required in the form of a letter of credit, cash deposit, or bond in favor of the County equal to 125% of the costs to meet the requirements of the decommissioning plan.
- 8. The applicant shall install and maintain ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642 and guidance as set by the Minnesota Board of Water and Soil Resources. The final seed mix shall be approved the by the Township.
- 9. A financial guarantee is required in the form of a letter of credit, cash deposit or bond in favor of the County equal to 125% of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established in accordance with the requirements set forth in Ord. 439.
- 10. Site layout shall adhere to proposed configuration submitted unless specific approval is provided by Avon Township. Major modifications may require review by the Avon Township Planning Commission and Board of Supervisors.
- 11. The project will follow the Stearns County Storm Water Management rules and requirements.
- 12. Noxious weeds are controlled in the project area.
- 13. A landscaping and screening plan acceptable to the Avon Township Board of Supervisors will be provided.
- 14. The company will provide to the Township the contact information for the responsible party once the project is completed.

Approval

Avon Township Planning Commission, Chair

Signature: _____

Print: _____

Date: _____

{Township Seal}

ATTEST: _____

Stephen G. Saupe, Clerk

Date: _____