

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, March 1, 2018 at 7:00 p.m.**

I. Call to Order

- A. Roll Call - The meeting was called to order by Chair Tom Sammon at 7:00p.m. Members present were: Tom Sammon, Preston Bauer, Michael Streiff, Charlie Peters. Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Planner Nicole Bonde-Jones, Administrative Coordinator Anna Aguilar. Commissioners present were: Jeff Docken. Others present: see sign-in sheet.

B. Reading of Notice

Motion by Peters, seconded by Streiff, to read the notice into the minutes.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

C. Motion by Peters, seconded by Bauer, to approve the agenda as presented.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

D. Motion by Streiff, seconded by Bauer, to approve the minutes of February 1, 2018.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

II. Public Hearing

1. Adoption of Resolution #18-011/Amending the Rice County Zoning Ordinance to Add Mixed Use PUD as a Conditional Use in the HC District

The Rice County Planning Commission held a public hearing on March 1, 2018 at 7:05 p.m. regarding proposed amendments to Chapters 508 and 514 of the Rice County Zoning Ordinance to allow for inclusion of a "Mixed Use Planned Unit Development (PUD) Overlay" as a Conditional Use within the Highway Commercial, HC Zoning District and recommend approval.

Motion by Peters, seconded by Streiff, to adopt Resolution #18-011 - Resolution Amending Rice County Zoning Ordinance to Add Mixed Use Planned Unit Development (PUD) as a Conditional Use in the Highway Commercial (HC) District.

RESULT:	Recommended for Adoption [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

PUBLIC HEARING - JENSEN - Zoning Ordinance Amendment

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

Chair Sammon opened the public testimony portion of the item to the public and the

following spoke:

Nancy Marth -Erin Township, This amendment is being requested for the benefit of one particular project. Good planning should mean looking at the big picture, for the good of the whole county. The Rice County ordinance defines Commercial use as the principle use of land or buildings for the sale, lease, rental or trade of products, goods, and services. Chapter 514.01 of the Ordinance, Purposes, states that the purpose of the Highway Commercial (HC) district is to implement the following Rice County Comprehensive Plan Land Use plan, goals & objectives. Goal 11, Objective 3 - a) create zoning districts to accommodate a wide variety of non-residential development; b) until centralized utilities are available limit development to low impact uses that do not require centralized utilities. This zone started off on the wrong foot to begin with. This parcel was zoned HC with little consideration for the overwhelming negative comments, questions, and concerns from area communities, the DNR, Cannon River Water Shed partnership, among others, and regular citizens in writing, at two public hearings, all addressing the Alternative Urban Area wide review (AUAR) mitigation plan. The zone was "Leap-frogged", skipping from Faribault to the intersection of County Road (Cty Rd) 1 & I-35 and north. Leaving this zone no practical access to utilities such as sewer & water. Traffic issues including access to individual parcels were also discussed as individual driveway access from Cty Rd 46 would be limited. The Comprehensive Plan was ignored. I have attached a copy of the agenda for the Planning Commission meeting of August 11, 2005. Item C is for an amendment to the Comprehensive Plan to give the plan a vision that the HC zone, which was already in place, was supposedly implementing. Even it focused on non-residential development as essential. A letter to the editor that I attached, was an example of the mentioned comment. These 13 years later, this property remains undeveloped. Access, utilities, environmental concerns were never really addressed and documented responses where vague. There certainly were no solutions. I feel this amendment is premature. Once it's on the books, it's there for the whole district whether this project falls through or not. We are stuck with this HC zone but two wrongs don't make a right. A response to a traffic question posed in the AUAR process was that warehouse distribution uses had replaced higher impact land use as consideration to lower that traffic impact. Adding Mixed-Use development, including residential, would only make this a bigger mess then already is, especially with bigger demand for non-existent utilities.

Elizabeth Heigl- Forest township, I live just north of this project in the HC Zone. First I was wondering if I can come down and get a copy of proposed amendments that you are voting on tonight? Or are you only recommending? Who is actually requesting this? I have a notice of hearing for the February 1st meeting, Terri Jensen has applied for a zoning ordinance. I have a letter from Terri Jensen, a realtor, on February 15th wanting to list my property, telling me the developer of the project has requested a zoning change amendment. I have a notice for tonight's meeting that just says it is on the agenda. Terri Jensen, do you represent the seller, the developer, or both? I guess I don't understand the process here because the letter she sent me says that the developer of the project has requested a zoning change. Maybe I am confusing the two. We did call her, according to her letter and were told that it would be better for our community if we put in a band-shell that community would like. We have an old farm house. I said what about my house? She said we can move it or lift it. It was built in 1920, probably not. She said they will give us a price according to the tax. My tax value is \$189,000. My mortgage is \$250,000. I am not sure who she is helping or how she is helping. Cty Rd 46 is busy. Bagely is busy. If you put in 300 houses, where are they going to go? I have the newspaper article and all I have seen is this one plan. Maybe there is something else and maybe the entrance and exit on Cty Rd 1, I don't know. I was told about tunnels that would be under there. I don't care what they do but if they are going to pack a bunch of \$300,000 to \$700,000 condos in the area. I have concerns.

Andreas Thurnheer Forest Township - I said at the last meeting that I have concerns. We have inconsistencies that we are creating here. The state wants us to have organized zoning in our area and we have made a plan. Everybody agreed with it. But now when a developer comes

in and wants to change that, we come down and say they can do that. That is your right but it creates inconsistencies with what you originally wanted to do. Doing it for tax income within the county, I think this is ridiculous. Especially when we look at the investment in Cty Rd 1 to do all these changes including all the infrastructure they have to put in. In 2005, you came to the conclusion that it would will cost the county about 30 million, at that time, to put in the infrastructure. I say think twice about it, whether we allow residential areas there. Residential areas belong in towns and cities, not into the county.

Bill Malecha- Forest Twp - I don't know if the mixed use is supposed to be all the way from Cty Rd 1 to Highway 19, or just this area that we are talking about, the 400-500 acres? The whole 1100 hundred acres? That is a lot of houses. If we do this, it is something we can live with but 1100 acres of house, wow.

Jane Bonnesen - This may be the wrong place to ask these questions but you can tell me where I need to go. My concerns have to do with everything everyone else has said but also the noise from the planned race track. I did not know about any of the other meetings but I have some serious concerns on how often cars will be there, what types of cars will be there, what is the plan for noise buffers or numbers of houses, and all the residents who live there. If someone could either tell me the answers or whom I should address them to, I would be very happy.

Chair responded This is a text amendment change to the ordinance. If this passes, then they will have to apply for a Conditional Use Permit and that is when all your questions should come up and be addressed.

Ed Heigl Forest Twp - I live just down from the proposed addition. My only comment is with what I have seen from the county so far with water problems. Brosky put in a drain tile on his property and the water now comes onto my property and forms a nice big a lake because of the drainage problem. What I have seen is the problem was created from Brosky's farm and I tried to figure out how the permit process worked for drain tiling but what I have seen from the county so far, I am not impressed. I requested a study and nothing has been done and I have not heard anything. I am concerned about this project and not in favor of it.

Chair Sammon closed the public testimony portion of the item to the public.

Discussion:

PB - It is stated in chapter 514, HC district, Mixed-use Plan Unit Development overlay, to meet the criteria all mixed-use utilities shall be issued a Conditional Use Permit and all procedures outline in chapter 522 will allow flexible project time, as long as protections for public health needs are incorporated. Everything has to go through the Conditional Use process to make sure it meets the requirements and codes whether it is a race track, water management system, environmental studies, etc. It is already zoned HC.

CP - As long as we do the Conditional Use process with it, then we can control the water quality, density, and septic.

TS - It has been zoned HC and nothing has been done with it. It has been too restrictive in my opinion. Maybe with the change in the overlay, we can get something happening in this county that will benefit the county and the residents as well. I am in favor of it.

MS - I agree. We will have a Conditional Use Permit to govern it and set standards with it.

PB - These are going to be places for incoming residents to live as well, so I am sure quality of life is important to them.

JD - Like Mr. Malecha stated, 1100 acres would be a lot of houses but we do have that control here. Plus, the residential piece has to be tied to another use. You cannot just come in and build 1100 acres of houses. It is not a standalone residential area. One could also argue, where else in the county would you put it? I am sure there are people who do not want to see it there at all. As far as traffic, that would be addressed during the Conditional Use process with accesses and structures.

CP - I'll make a motion we move this onto the County board.

MS - I'll second.

Motion to recommend approval with stated conditions and findings made Peters, seconded by Streiff, and approved.

III. Old Business

1. WOP/Perkins (Kuelbs) - Section 18, Webster Township

Yvonne Perkins, on behalf of landowner Joseph Kuelbs, has applied for a Waiver of Plat to create a 2.5 acre single-family dwelling site through the use of Transfer Development Right. The property is described as: Part of the SE1/4 of the SW1/4 of Section 18, Webster Township, Rice County, Minnesota. PID #: 02.18.3.75.002. The property is Zoned A, Agricultural.

Motion by Streiff, seconded by Bauer, to table until April 5th the Waiver of Plat for Yvonne Perkins on behalf of landowner Joseph Kuelbs. This property is located in Section 18 of Webster Township.

RESULT:	Tabled [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

CONDITIONS OF APPROVAL - Perkins (Kuelbs) - Waiver of Plat

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

This request was tabled at the February 1st, Planning Commission meeting. Since then the applicant has had discussions with the Township on the roadway status and will be proceeding by applying for a variance from the road frontage requirement. They have not applied for that yet but my understanding is that they would be applying shortly for that, most likely for the April Planning Commission and Board of Adjustment meeting.

JD - There is time to table again, correct?

MS - Yes, we would send a letter to the applicant about the requirements.

JD - I don't believe the applicant is here but I think that makes sense as long as there is time to table it. They would still have to go through the Waiver of Plat process but they could do the variance at the same time. I did get a call from a landowner to see where we were at with it. I told them I didn't have any more information then last time.

CP - They are working with the Township?

JD - They were at the last township meeting. They talked to the township and whether or not they came up with an agreement with the Township, if they work something out with the other land owners, it could still work.

TS - The variance would have to go through the Board of Adjustment before we could proceed with this Wavier of Plat.

TM - Yes, if they apply for a variance, it would need to go before the Board of Adjustment first.

MS - I will make a motion to table this until the April 5th meeting.

PB - Second.

Motion to table this request until April 5, 2018 made by Streiff, seconded by Bauer, and approved.

IV. New Business

1. CUP - USS Webster Solar LLC (Pavek) - Section 6, Webster Township

David Watts of USS Webster Solar LLC, on behalf of landowners Mark & Jacqueline Pavek, has applied for a Conditional Use Permit (CUP) for a 1 MW solar energy production site utilizing approximately 8 acres. The Planning Commission heard this item at their meeting on March 1, 2018, and recommend approval with 12 conditions. The staff report, application, and aerial photos are attached for your reference.

Motion by Peters, seconded by Streiff, to approve the conditional use permit for 1 MW Solar Energy Production Site with the attached conditions and findings recommended by the Planning Commission for David Watt, on behalf of landowners Mark & Jacqueline Pavek. This property is located in Section 6 of Webster Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters

CONDITIONS OF APPROVAL - USS Webster Solar LLC (Pavek) - Conditional Use Permit

1. The landowner and operators shall comply with all rules, regulations, requirements, or standards of the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers, and other applicable federal, state or local agencies.
2. The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements. Access driveway shall be relocated east to a more central area of the site along 40th Street.
3. Security fence shall consist of fencing meeting state and federal electrical code requirements.
4. All required permits shall be obtained prior to onsite construction.
5. As soon as onsite construction is completed all areas of the site, excluding the access roads and electrical equipment pads, are to be established and maintained in Agricultural crop production or a perennial vegetative cover.
6. All electrical lines internal to the site shall be buried underground.
7. A vegetative screening consisting of alternating rows of arborvitae and dogwood, the first row being dogwood and the second row being arborvitae, with 16 feet between planting within each row, shall be established on all four sides prior to final building and zoning certifications. The screening shall be maintained along all four sides for the duration of the Conditional Use Permit.
8. An agreement with Webster Township shall be developed prior to construction. The agreement is to address road maintenance during site construction.
9. The applicant or operator shall furnish Rice County with a \$50,000 bond or other approved financial surety to ensure proper site decommissioning/restoration and to ensure road repair or other off-site damages caused by construction or operation of the facility. Financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on-site.
10. The entire site shall be restored to a condition suitable for agricultural crop

production within 18-months after the cessation of onsite electrical production.

11. Failure to comply with conditions may result in revocation of the conditional use permit.

12. This Conditional Use Permit shall expire and be considered null and void if no construction has begun within one year from the County Board approval date.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC). TM stated that there are some blanks in the conditions, mainly dealing with screening of the project.

The PC asked the applicant, David Watts (DW), to come forward to add comments or answer questions regarding the request.

DW - I am a project developer with US Solar.

Reid Richardson (RR) - I am with US Solar. We have two projects on the agenda, so I will give one introduction quickly on the company and then we will go over the project specifics. US Solar is a local company, headquartered here in Minneapolis. We have about 15 employees here and we have an office out on the East coast. We are a Solar company. We develop, build, own, and operate for the duration of our projects. We look at these projects as long term investments for us. These two projects in Webster are part of the Community Solar Project program with Xcel Energy. We interconnect the facility to the existing power lines on the southern and eastern sides of the property and we export the energy right into the grid. Then we turn around and sell subscriptions to people throughout the community and the surrounding area. We selected this 8-acres on a roughly 33-acre parcel back in late 2016 because of its proximity to existing infrastructure and it is in an area that has an ordinance allowing for it. We believe we meet the criteria of ordinance and we have a willing land owner partner. It took that long to get before you because we wanted to make sure we had all of our authorization from Xcel. It took us a long time to get all the approvals and we conducted series and series of studies. We do have an interconnection agreement signed and funded with Xcel Energy. So should we be given a Conditional Use Permit, we have authority with Xcel to build an interconnect with them. There are some unique aspects on how we build projects. To recap a little bit of the history of the project, we sent out flyers to all the neighbors who would be receiving notices of this public hearing and we attended the Webster Township meeting a few weeks ago. We answered a lot of good questions. We learned a lot about peoples past experience with solar already in the community. I think it is important that we highlight a few of the big difference with our project. #1, it is smaller. We are talking about 8-acres verses some of the 30 to 40-acre facilities that are in the area. Our panels are lower to the ground. We build on single-axel trackers. That means they are about 5.5-ft off the ground. We install the panels flat, facing straight up and they tilt East in the morning and West in the afternoon with a max tilt of roughly 60 degrees. They will be about 8.5-ft off the ground at the high point and about 3-ft at the low point. They have a lower profile then the larger projects. We also look at these as private investments in the native prairie. We noticed the Staff Report there is a condition to plant perennial which is exactly what we do. So out of this 8-acres, there would be roughly 7.5-acres of native grasses and flowers. When we met with the township, we talked about their experience with other projects which led us to bring up our standard of wooden farm-field fencing as opposed to 8-ft tall chain-linked fencing with barbed-wire. We want to thank everyone for the great questions and comments from that meeting. Specifically, I will talk about three pieces of feedback we received from the neighbors. The Simon family to east had questions and concerns about water and erosion. We spent a lot of time at the meeting talking about the Minnesota Pollution Control Agency, Storm Water permitting, erosion control measures. We are proposing to build permanent erosion control with roughly .5-acres of permanent erosion

control on eastern side which is the way the water flows. After the Township meeting, we sent them the plans and report and believe we have satisfied that concern. Additionally, a neighbor to the south had asked about relocating the driveway and the point of interconnection. The driveway to the site and where we would interconnect to the grid, we like them to be at the same location because Xcel needs a driveway. Currently our proposal is on the far southwest corner, we would turn into the 33-acre property and then hang a right going east into the solar fence. The neighbor across the street asked if we could shift that to the east and we are absolutely willing to do that. The road authority is the Township but as long as we stay far enough west of the bend in the road. I think we 200-ft or so that we can shift that. We would agree to make that modification should we be recommended for approval. We also received a letter in the mail from another member of the community proposing an alternate location. Unfortunately that location is not in Xcel's territory and is not possible to be part of the Community Solar Garden program. Unfortunately we are not able to accommodate that. I think our project improves upon other solar projects and is a good neighbor. It is lower to the ground, quiet, will not produce glare, and we are proposing, above and beyond the requirements of the ordinance, to plant approximately 50 Evergreen, Techny, or Arborvitae and 133 Dogwood or similar. We proposed to members of the Township if anyone feels strongly. The DNR has told us for other projects, Elderberry or Nannyberry are good substitutes for Dogwood with similar benefits. We are open for guidance but currently we are planning 50 Techny or Arborvitae and 133 Dogwood along the southern and eastern perimeters of the project. We do believe we are a good neighbor in that regard. In our application we have gone step-by-step to address each of the criteria of the ordinance and we are very confident that we meet all the criteria. We did want to bring up one thing with the proposed conditions. We note that the County, in the past, has required a \$50,000 decommissioning bonds for all the other solar products. I would like to point out our main issue with that. I think financial surety is good and has reasons to be required. We just note that when the County previously required \$50,000 it was generally for 5W projects, \$10,000 per megawatt where this is a 1W project. If we were given the same decommissioning requirement per unit, per megawatt, it would be a \$10,000 decommissioning bond. In our application to you, we actually increased that by 50% and suggested that we be given a \$15,000 decommissioning bond. In other words, not being charged five times the rate per megawatt as other applicants in the past. That is the one discrepancy we have with the conditions as written. The landowner is here and can also say a few words about why they are doing this but we respectfully request that you recommend approving this project.

PB - Just to review, you talked about the vegetation being 50 Techny or Arborvitae on the east and south areas. Where was the Dogwood going?

RR - The Techny would be along the southern border of the property staggered/mixed with Dogwood, then the Dogwood would continue on to the entire eastern perimeter. We have that as part of our application on a site plan called, "Preliminary Landscape", which was drawn up by a licensed landscape architect.

PB - And you have proposed a deer-type fence?

RR - It meets the National Electric Safety code and we feels it blends in and fits the character of the community better.

TS - With the number of trees, what is the spacing?

RR - We would be placing them 8-ft on center. Techny have a mature height of 12 to 15-ft, Dogwood are 8 to 10-ft and Elderberry can be a little bit taller than Dogwood.

MS - How big would they be when you put them in?

RR - Techny would be 6-ft height bulbs. When you dig it out, it would be 4 to 4.5-ft, which was recommended by DNR to experience less transplant shock. The dogwoods are buckets, so they are shrubs but grow quickly.

MS - In the past, once approved, we have seen issues with communication. How will that work here? Will both of you be available for anyone to contact if there is an issue?

RR - David is the lead project developer on these sites. He will be available for all questions. I am here as well. Once we get to the construction stage, our colleague Jessie who is the Director of Construction and Management, would be the primary point of contact. We also proposed delivering a Safety and Instructions plan, like an operations manual, that would

have our onsite contacts.

DW - I worked with these land owners in negotiating the leases and brought the projects to this point and will continue to be a good point of contact. I think this gives a little bit of color to the sort of company you are working with, US Solar. It is a local team, we are headquartered here. Each one of these projects makes a critical difference to our company, so it is not the same as some of these global companies that came in for the 5W projects and now that project is lost in a spreadsheet. For us, this is top of mind. We are easy to reach.

TS - Do you send the power directly to an existing line or do you have to get it to a substation?

RR - We will connect straight into the existing overhead power line along the southern road. It is a 3- phase distribution line that connects to a substation down the road but we put our energy right onto the grid.

TS - So with outages, you would disconnect. You wouldn't be powering up a line?

RR - Yes, there are a lot of safety protocols that are in place such as redundancies and switches.

PB - What is limiting factor with the number of solar gardens when connecting to a substation.

DW - This specific solar garden is connected to a substation that has reached its capacity. There cannot be another solar garden added to any feeder line that is connected to the substation.

Chair Sammon opened the public testimony portion of the item to the public and the following spoke:

Clayton Kjeer - I live directly across the road from the proposed site. I object the location chosen for this project. Most of the close neighbors also object. We have submitted a petition with at least a dozen names with neighbors who object. Two of our nearest neighbors are out of the country, unable to attend this hearing but both are strongly opposed.

CK discussed concerns submitted in his letter prior to meeting and attached to agenda packet as "Proposed Solar Garden at 6647 40th St W_Public Response" and "Proposed Solar Garden at 6647 40th St W_Public Response #2".

Jim Duban - Wheatland Township Clerk - The famous Wheatland Township solar farm is a about a mile to a mile and a quarter west/southwest of this location. The Wheatland Township board had a discussion about this proposed area and we respectfully request that all traffic be limited to Cty Rd 3, 37th Street, Farewell Avenue in Webster Township and that no traffic be in Wheatland Township. We had a mess with the last farm and we don't want another one. They can come down Cnty Rd 96 and shoot across on 40th Street if they wanted to but we would prefer that they did not do that. They want to tear up a road, they can tear up Webster Township. Otherwise we will be back here again if we end up with a mess like we did last time.

Sue Kjeer - I live right across the street from this. My concern is about the integrity of US Solar. First of all they kept, their intentions hidden from the neighborhood for over a year. Most of us were not aware of the intentions until February 8th. Why the secrecy? We were given 24 hours notice of the February 8th meeting. We have been unable to find reference for US Solar where they have already installed units. In any case Xcel Energy will be the ultimate manager of the site. We have no confidence in US Solar following through on any commitments they make based on our previous experience with the site that was built a mile down the road. There are many errors in the submission of US Solar as posted on the Rice County website but we do not have time to go through all of those. This is a pipe dream. The brochure has nice pretty flowers. The flowers are pretty but what will be there is prairie grass and in the summer when the prairie grass dries out and we have a storm, that prairie grass will catch on fire and the fire department will not spray water on high powered electricity. They have that problem in other counties. Other solar arrays are further off the road and away from residents. This one is right in the middle of houses and farms; a very poor location. What

about liability? Who pays for the damaged road? They already talked 40th getting beat-up last time. A culvert collapsed that ended up having to be replaced after the last solar array. Visibility on the corner of 40th and Farewell will be limited which can cause a traffic hazard. The use of Conditional Use Permits to put industrial projects in residential areas is a dangerous precedence. The Rice County Planning Commission should develop a mission statement for their comprehensive planning. It seems sensible to develop this plan to include solar arrays to avoid mistakes that will affect future development and then decide if this solar array should be located in this very undesirable location.

Brian Haynes - I own the property immediately to the west of the proposed site, literally within a few feet of it. This has been a home site for over 100 years. I, too, am strongly opposed to the granting of the permit. In my opinion the site was poorly chosen with regards to residents and home sites nearby. There are multiple home sites in close proximity. There are other tracts where a facility like this could be located with much greater spacing to residents. Community Solar Garden is interesting. Make no mistake, this is not a garden or community. It is an industrial product site for energy and the community had nothing to do with it. The concern I have with my property, this creates a visual eye-sore, decrease property value, it disrupts the agricultural nature of the community. As far as I can tell there is no screening planned on the West or North. There are residences close in visual range on both of those sides. The assurances of no glare are clearly not true. The same with unobtrusive fencing and screening. Once installed the operator basically showed complete disinterest in living up to ongoing commitments to the residents and neighbors. They are impossible to contact and completely unresponsive to requests to honor its commitment. We are talking about an industry here that is already subject to tremendous consolidation and mergers and acquisitions. Small Solar companies, like this, are being sold everyday. My degree of confidence that this company will remain a small local company for a long time is low. What happens when they get picked up by a larger company in New York. They are not going to care about whether the flowers die in two years. What happens if these folks disappear on us? I understand their concern as a small company with the \$50,000 bond basically for following through on their promises. Reducing that to \$15,000, we are talking about a 25 year facility. \$15,000 is the only leverage we have to make sure that in 5 years, if all the trees die, they come back and replace them. I am very concerned about that. I think that is poor business. Solar energy production really needs standards and consistent policy, not adhoc permitting. I understand that the development of standards like that is in progress now in Rice County. It is not necessary to continue this adhoc permitting with people like us who are not experts in this field. Maybe we need to wait and find out how the standards play out.

Duane Kane - I live near the existing solar site at 7380 40th Street W. I would like to comment on some of my experience there but first I would like to say that the pictures do not show how close the existing houses really are. I am concerned about screening. The land is rolling, so the screening could end up in a low area of the site and if the panels are on the higher side, they'll still be visible. I have solar panels to the south of me. I have panels to the west of me, directly next to me and now this will be panels to the east. The big concern I have is about the integrity of the Conditional Use Permit process to protect the neighborhood. When I went back and listen to the audio recording that enabled the facility at 7380 40th Street W, I was amazed at how blatantly misleading statements were made in order to get a Conditional Use Permit. I feel the County was lied to, whether it was deliberate or through incompetence, there were statements made about construction equipment size, noise, duration of the construction, affect on wildlife, fencing and glare that were totally misleading statements. Once the permit was granted, it seemed leverage was gone. I get glare two months out of the year and it has to do with where the sun travels in the sky. In the fall and in the spring I get glare for several hours a day but the applicant for the permit claim that it would be absolutely impossible to have any glare. He said that verbally and in writing and now I have been asking the County to step in and do something and I am not getting help. If the process is so broken that we can allow people to come in, and under deceit, gain a permit and then loss any leverage to take corrective action to protect the neighbors then this is a

process that really needs to be looked at through zoning requirements on setbacks or adding requirements. Something has to be done. We have to learn from the mistakes that were made on any existing sites. So far I am just not seeing that.

Dennis Shell - I live just to the west of this site. I am going to talk about safety issues and Conditional Use Permits.

DS discussed concerns submitted prior to meeting and attached to agenda packet as "Proposed Response_email" and "Proposed Response_email_UPDATED 3.1.2018"

Charles Jensen - When the picture is up there, the white spot to the northwest is me. The white spot is my out building. I share many of the same concern for this site as my neighbors do. As I was looking into this matter, I begin searching the County website to see what ordinances we have in place, what standards have to be met and I found that there seems to be nothing written down or published. I also found there is no real Comprehensive County Plan in place but one is being formulated. Giving that this land usage for solar power generation is a new usage, I can understand why there is nothing on the books, but at the current rate of construction and the applications for permits it would certainly be prudent to take a step back and review what has happened. Impose a moratorium on accepting new applications and reject all current applications not already under construction. Give time to create a plan and regulations pertaining specifically to this type of land use. It is time to do an analysis of the current operational facilities and quantify what has gone right, what has gone wrong, and what is the real impact on the area both in terms of quality of life for the residents nearby and the natural environment. Only then can real informed decisions be made on these applications. As it currently stands, I cannot find any guidance on what number of installations constitute over saturation of an area. Should both the Conditional Use Permits on this agenda be recommended for approval, it would bring a total of four sites in operation within two miles of my home and roughly 60-acres of solar panels. At what point does it go from being an agricultural zone to a commercial zone? Lets be realistic on what these sites really are. Calling it a community solar garden is a nice way to conjure up mental images of flower gardens while in reality they are a commercial electrical power generation facility. I am guessing the investment of developing these sites will run into the seven figure range and I will give you extremely good odds that most of these installations will be permanent. I bet in 25 years when they should be dismantled, they will be allowed to continue and I can think of many reasons why they will be allowed. Electrical demand will be up, removal of such a capacity is not in the public's interest, sites have already prevented 'x' amount of green house gases from being produced.

Chuck Rud (CR) - Webster Township Clerk - Our concern in the road maintenance. When Wheatland had that one built about a mile west of there, 40th street got really beat up. If we could add something in the conditions that they will take care of the road.

CP - At the Township meeting, did they talk about an agreement?

CR - It was discussed that 15 or so trucks/loads total I believe. I don't know how heavy. Wheatland did have a problem and they traveled on our road to build that site.

CP - One of the conditions here is for an agreement with the township.

CR - The township has not seen anything yet.

Greg Laban - I have lived on 40th St W for 40 years. The traffic has been terrible the last two years. They closed 86 down and it took them two years to rebuild five miles. Last fall we went to a township meeting to try and have them put some better material on the road. What happens if I want to build a pole shed on my site, it is too close to the road. That is a terrible road.

Roberta Shell - I live just down road from this site. I am opposed to this Conditional Use Permit. The gentleman from US Solar, earlier, stated that he wanted a specific type of fencing and that fencing is more in the character of the community. It seem ironic to me because these solar panels are not in the character of the community. We have houses fairly close

together and I walk 40th when it is not too cold out. I can actually walk from that 30-acre site and hit two different solar sites during in my short walk. It seems like we are getting inundated with these solar gardens on 40th. There is another proposed in Webster and another going up. The character of our community is changing and I am concerned about that. 25 years may not sound long but it is the rest of my life and they will be there.

Chair Sammon closed the public testimony portion of the item to the public.

TS - Does the applicant have any response to the comments that have been made?

RR - There are some comments that I would like to respond to. One related to the comments about the site being high voltage. There actually is not high voltage on these projects. Solar is low voltage and at the point of interconnection, when the energy becomes operated by Xcel, it is medium voltage and there are adequate safety mechanisms in place for emergency reasons which are industry and best practice standards and we fully intend on complying with all of that.

Discussion:

CP - Mr. Clayton Kjeer said that other sites are possible. I don't know if they were explored or not. There is a lot of residential right there in that area. I can see people are concerned about that.

TS - Trent, can you come point out the residences in the picture?

TM showed homes on map.

MS - Where is the school?

TM showed school on map.

PB - Trent, can you point out where the other Solar sites are?

TM showed other solar sites on map.

PB - Is there any size regulations to trigger an environmental impact study related to solar arrays?

TM - Not anything that we deal with at our level of permitting. When you get to a large enough level, it is actually permitted by the Public Facilities Commission. They did a large project south of Faribault and did an environmental review on the whole project which was spread over multiple counties.

PB - There is no wording regarding density?

TM - Not within our regulations, no.

TS - Do you have to Topo map that shows the elevation changes on this site??

TM - I can pull it up on Beacon but will go back through the pictures first.

TS - I would just like to get the grade and elevation. It looks like the property is higher than the road.

TM showed proposed solar sites pictures again.

MS - Is there any way to walk through the construction route they are proposing?

TM - That would be better for the applicant to address that.

RR - We have not prepared a specific trucking or delivery route. It sounds like there is concern on which roads we use. We do understand that we need a road agreement with the township prior to construction. That is very common. There would be a surety posted for after construction, in case we wreck the road and do not fix, there is money to fix it. That is standard practice. I would imagine we would be using the main roads and if it is desirable to have a condition to that effect we are open to that.

MS - After the construction is one thing but what about during construction? Using the main road, you will be going by a school. When would you start construction on this?

RR - It would be late summer into fall by the time we have all the necessary permits and would be able to start. I think it is important to point out that the total traffic you have previously experienced, would be 1/5 the size then the 5W site. It would be significantly less traffic in general but we are open to specifications on the route and we would have road agreements in place.

MS - It would be more having something with the township so they understand exactly when, how, and where.

RR - Absolutely. We did talk about it briefly at the township meeting and we know it is a condition. Condition #8 I believe.

JD - This is never an easy thing when we discuss Solar. It tends to cause controversy in neighborhoods. I do not think the bond is something we should negotiate or lower. If you think about it, in 25 years, what is \$50,000 going to buy you? The road agreements can be overcome but you have to keep in mind that coming right off of Cty Rd 3 there is a short piece of tar that goes up to the school. We had a controversy at the school already over the tar. Everybody looks at alternate energy sources. Solar is one and wind is another, and the wind turbines create controversy too. One of the hurdles to overcome is screening. What I do like about this company is that the panels are moveable. I think that eliminates some of the issues with constant glare. The other problem is why is it all down that stretch? It is because Xcel is the one that gets all the credit. You do not have other companies in that area that get the same benefits as Xcel does. If we wanted to build one on Steele Waseca's line, our chances would not be very good at getting that. I understand the concerns and there are probably other places that are less visible but this is the site being proposed. You cover those conditions by the screening. Is it going to work? Duane has been after us because he has had issues with the other company that is there and not getting the necessary screening.

PB - Is there solar panels that do not give off as much glare?

RR - Regarding glare, importantly, solar exists in non-glare areas. We are using the same technology as is used at airports and regulated by FAA. Most solar panels are in glass that has anti-reflective coating on the glass. We do use the anti-reflective glare. Every unit of light we reflect is energy we are not using. So selfishly we do not want to have glare. With single-axis tracking, there is less reflectivity off of what we are proposing compared to that off water, rocks, and grass. The fact that we are rotating, would mean any brief moment of glare would be incidental by nature and not something that is statically facing south. We do believe that we have covered those concerns based on are technology choice.

PB - So the most glare would come from the frame work and the aluminum?

RR - We have done glare studies in the past and we do not see it rise to that level.

MS - How about the topography challenges with the site and glare?

RR - A lot of the topography is along the road way and we are building away from there. We do not anticipate any grading of the topography on how the technology works.

CP - My feeling is that conditions 7, 8 & 9 need to be addressed. #7, the screening. I would like to see screening around the whole site. Something that the neighbors to the south could visualize and agree with. #8, I would like to see a township agreement first before approval. #9, I think the \$50,000 should stay in place.

PB - Yeah, that covers during the construction phase and the decommissioning of the site. For screening, what do you propose?

CP - I would like to see it around the whole site. Arborvitae would be good, maybe, a little closer. The Dogwoods are not a winter screening. I would like to see Arborvitae around the whole site. Dogwoods would be good as an outside screening, row one, and the Arborvitae could be row two.

TS - You are addressing my concern and that is visibility. With that many houses around it and the topography, I like your idea with two rows, one of each, around the whole thing.

MS - Maybe adding a minimum height when planted?

CP - They do grow pretty fast. Techny usually max out at 15-ft but if they could start at about 6-ft.

TS - Does that size move well?

CP - I don't know

PB - Just out of curiosity, this site to the west, is there a house there or is it a buildable site?

Public - Yes, the house burned down but will be rebuilt soon.

MS - With condition #8, I think we should go with the agreement will be in place prior to.

TS - It does say they need it prior to construction. But to Charlie's point, the only way to see the agreement would be to table this and have it come back.

CP - I would like to know that it was carried through.

JR - For solar projects, we require a building permit and we do not release the building permit until all of the conditions have been met.

MS - So they would have to show the agreement prior to getting a building permit?
 JR - Correct.
 TS - Ok, that addresses that.
 PB - So, you want it screened around the whole thing?
 TS - Charlie and I agree on that, yes, two rows.
 PB - Are we setting the standard for screening on all Solar gardens?
 TS - Each applications is site specific, so what we do for one doesn't have to be for all.
 CP - I will make a proposal to move this forward if condition #7 is changed to have screening around the entire sight, two rows with Dogwoods as the outside row and Arborvitae as the second row. The township agreement, make sure that gets done, and condition #9, we keep the bond at \$50,000.
 MS - What about with condition #7 and the starting height?
 CP - I agree, we should start out with 6-ft bulbs. 4-ft out of the ground after planted. Also there has to be an agreement to up keep the screening.
 TS - Trent, how are you doing on the wording?
 TM - I do not have wording for the screening condition yet but condition #2, for the driveway access will read "The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements. Access driveway shall be relocated east to a more central area of the site along 40th Street".
 CP - I think that should be moved halfway between. It would be nice to move it more to the east towards the intersection so it is not right across from the neighbor to the south.
 TM - For the vegetative screening wording: "A vegetative screening consisting of alternating rows of arborvitae and dogwood, the first row being dogwood and the second row being arborvitae, shall be established on all four sides prior to final building and zoning certifications. The screening shall be maintained along all four sides for the duration of the Conditional Use Permit". Did you want to specify Spacing?
 TS - To the applicant, what is on your plan?
 DW - The 8-ft on center is referring to between each plant. So as it is written right now, it would be Techny or Arborvitae then 8-ft, Dogwood.
 TM - That would be 16-ft within each row. I will add that to the condition.
 MS - I'll second.

Motion to recommend approval with stated conditions and findings made Peters, seconded by Streiff, and approved.

2. **CUP - Watts of USS Webster Solar LLC (Olson) - Section 4, Webster Township**
 David Watts of USS Webster Solar LLC, on behalf of landowners Curtis & Lisa Olson, has applied for a Conditional Use Permit (CUP) for a 1 MW solar energy production site utilizing approximately 8 acres. The Planning Commission heard this item at their meeting on March 1, 2018, and recommend approval with 12 conditions. The staff report, application, and aerial photos are attached for your reference.

Motion by Peters, seconded by Bauer, to approve the conditional use permit for 1MW Solar Energy Production Site with attached conditions and findings recommended by the Planning Commission for David Watt, on behalf of landowners Curtis & Lisa Olson. This property is located in Section 4 of Webster Township.

RESULT:	Referred for Approval [3 to 1]
AYES:	Bauer, Sammon, Peters
NAYS:	Streiff

CONDITIONS OF APPROVAL - USS Webster Solar LLC (Olson) - Conditional Use Permit

1. The landowner and operators shall comply with all rules, regulations, requirements, or

standards of the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers, and other applicable federal, state or local agencies.

2. The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements.

3. Security fence shall consist of fencing meeting state and federal electrical code requirements.

4. All required permits shall be obtained prior to onsite construction.

5. As soon as onsite construction is completed all areas of the site, excluding the access roads and electrical equipment pads, are to be established and maintained in Agricultural crop production or a perennial vegetative cover.

6. All electrical lines internal to the site shall be buried underground.

7. A vegetative screening consisting of two offset rows, one of dogwood or similar deciduous species and the other of arborvitae or similar evergreen, shall be established and maintained as shown on submitted landscape plans, but extending all along the south side prior to final building and zoning certifications.

8. An access easement shall be recorded prior to issuance of any construction permits.

9. The applicant or operator shall furnish Rice County with a \$50,000 bond or other approved financial surety to ensure proper site decommissioning/restoration and to ensure road repair or other off-site damages caused by construction or operation of the facility. Financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on-site.

10. The entire site shall be restored to a condition suitable for agricultural crop production within 18-months after the cessation of onsite electrical production.

11. Failure to comply with conditions may result in revocation of the conditional use permit.

12. This Conditional Use Permit shall expire and be considered null and void if no construction has begun within one year from the County Board approval date.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

The PC asked the applicant, David Watts (DW), to come forward to add comments or answer questions regarding the request.

Read Richardson (RR) & David Watts (DW) - RR - I will jump right into the specifics of the project. The property owner is also here this evening. Similar to the previous project, we selected this site towards the end of 2016. The property went through a number of studies with Xcel. We selected this site because it is in close proximity to an existing 3-phase overhead power line that services Xcel and this property is situated well because it is extremely blocked visually by a large native row of trees and vegetative buffer on the east

and south. To the west it is extremely setback and buffered by an ongoing agricultural related industry operation. We do have an access easement already recorded which would be equivalent to condition #8 on the previous project. This project would utilize same technology as the previous site: 5.5-ft off the ground, tracking to a max height of about 8.5-ft and 3-ft or so at the low point. We initially proposed augmenting the existing trees on the southwest corner and coming up to the north, filling in with the double row concept. Because the southern and eastern are already blocked and the company to the western is blocking the view to the road, we have proposed a smaller amount of trees but are proposing 40 trees. We are open to extending that to fill in any visual gaps along the southern area. In the application we have gone through each ordinance criteria and were able to check the box on all the items. We do believe this project application does deserve a Conditional Use Permit. We meet all the setback requirements. In terms of time frame, if approved, it would go through a similar construction time frame as the previous site. It would be the same contractors with the same operations plan and same contacts.

Chair Sammon opened the public testimony portion of the item to the public and the following spoke:

Leonard Pumper - I am not opposed to alternative energy but my house is exactly 98-ft from that fence. There is no city ordinance. Obviously I am concerned about glare from this distance. The only benefit I see out of this is that I have the opportunity to look at a solar field out my window as long as I live there. I am not the only house on the fence line. They talked about proximity to a bigger line to tie into. It cannot cost that much to move it a couple hundred feet. In it's present state, I am opposed.

Duane Kane - I want to make it very clear that the glare I mentioned is completely real. I would be happy to have someone from the county come out during the time of year that it evident so you can see for yourself. I did attach photos to the email I sent in. People can talk about how the panel may absorbed most of it but when I look at it, it is like a mirror reflecting light back to me. I offered the company \$7,000 of my own money to help with screening and was declined. This is not a good neighbor that lies to get a permit, is incompetent when studying the geometry that could result in glare if there is glare, and does not accept me help in trying to solve a problem. I am really hoping the County can help with this problem. This is a problem that is not going to go away and I am not going to stop being interested in it. I have asked for help and, so far, I am not getting it. It is a very serious quality of life issues. I hope that the people putting in the other solar gardens are looking at the geometry to understand sun angles over time of the year and over time of the day, so they know what they are dealing with.

Curt Olson - My wife and I own the farm they are talking about and we are not experts on solar installations. In general, I think there are a lot of good things about this. Green energy is something that we need, not just for Webster township but for Rice County. I think it will be a big change in some ways. I don't know about the glare. The company discussed was a different company. During construction, I think it will be loud and dusty but once it is built, it will be an 8-acre neighbor that is screened, quiet, it does not have a smell, and will not add to water pollution. I think there are a lot of good things about it. It will be locked in, we will have a neighbor for 25 years that is quiet and really unobtrusive. I would recommend if you are mandating the type of screening, I would recommend that you specify two different types of species. That way if something goes through, we do not have a Dutch Elm type issue. It does need to be screened properly. It is a big change. It is already a mixed-industrial site with the former co-ops grain bins and grain elevator, and a former creamery down there. I am sure it will be quieter then the grain bins with their fans and we get along with them just fine. I think it will be a good neighbor and to have it locked in for 25 years is a real positive thing.

Mark Pavek - My wife and I are the owners of the first site. I would like the re-iterate what Mr. Olson said. It is renewable energy. When it is done right, there is a place for it. We are all

hooked onto electricity. We need it and it has to come from somewhere. If I grow corn and haul it to an ethanol plant, it is used for energy. This seems like once it is set-up, when the sun shines, you are producing energy. After the construction, there will be minimal traffic for 25 years. To the environment, it is good to have the native grasses. I went to a meeting the other day on sprays for soy beans. It is not a good product and this is one place, close to home, where there will not be any chemicals sprayed. For the people around it, it does not seem like it will be a good neighbor but in the long run, I think it will be.

Chair Sammon closed the public testimony portion of the item to the public.

Discussion:

CP - Can we see the photo of the trees to the south?

TM recapped pictures.

TM - The screening proposed on the landscape plan submitted does start the planting on the south side, going to the west, and then up along the west side.

CP - I did notice there was a wetland delineation that has not yet been done according to the Rice County Soil & Water department.

RR - Yes, as a part of the process, we have to get storm water permitting. We have not completed it yet. We have done desktop delineations but generally the filing would be rejected if it was done with snow cover. We did not get to it prior to winter but have it earmarked for May 1st. Condition #1 does state we need to get all permits from all authorities; federal, state, and local; prior to construction. The storm water permitting would fall under this condition.

CP - With the screening, the landowner brought up a good thought. The existing trees that are there, if they do die, I would be open for a condition to replace the trees in case something does happen to the existing trees.

RR - Some of those trees may be on neighboring property. That is why we propose starting where we started with the proposed plan. It would be a mix of the deciduous and coniferous which we think that is a really healthy mix of trees that will survive.

CP - Will the solar array going to step in when it gets below what you consider good screening? Are you going to maintain a southern most line with the solar array or are they going to be out in the field a ways?

RR - Yes, we would be off to the north. Typically, if those were 50-ft tall trees, we would want to be about 100-ft away. Typically what we use is a two to one ratio for any height obstruction to distance. We want to make sure we are not shaded by the trees.

CP - So you could, theoretically, run your two rows of screening all the way up the eastern line and you wouldn't shade any of your panels?

RR - That is true and, ultimately, if that is what is decided, we will do it but there is already a dense multiple rows of trees. We would be screening trees from trees at that point. If there are gaps in the existing tree screening, we would be willing to plant trees or communicate with the landowners to plant them on their properties. We would be open to planting where ever there are gaps.

MS - How are they going to sit-up on this site? Looking at the slide with the red outline, is it going to start right at the edge and go all the way up?

RR - With single-access tracking, the rows are north to south as opposed to east and west. What you already have in the area is something sits facing south all the time. There is spacing, 18 to 20-ft between rows so when they rotate it does not cause self-shading.

DW shows Planning Commission a picture on tablet.

TS - We are back to screening as the main issue.

CP - I would be willing to pass this site with screening. I would like to see the entire south side screened being that the panels are set back. Lets plant the extra trees and go all the way east and west on the south side.

TS - So you are saying the entire south side and the south portion of the west side?

CP - Yes, not all the way around. Just the whole south side in case something would happen to the neighbors trees.

MS - I would be opposed to this one. Take the houses that are there, this is going to create a

challenge if they ever want to sell their properties. I don't think this is a good site this close to town.

PB - It looks like the field angles away from the housing and there is a natural wood line. I think with adding another row of trees, I am good with that. It is a pretty quiet neighborhood. It has a gain bin industry pretty close by and it's way in back. I think it will be a quite neighbor in itself.

CP - I'll make a motion if we change condition #7 to have the screening along the whole southern part and up part of the west side.

TM - "A vegetative screening consisting of two offset rows, one of dogwood or similar deciduous species and the other of arborvitae or similar evergreen, shall be established and maintained as shown on submitted landscape plans, but extending all along the south side prior to final building and zoning certifications".

CO - Can we specify species?

TS - Are you open to two different species?

RR - Yes, as long as it is DNR recommended or approved. They have given us a list of 8-10 plant species, a mix of deciduous and coniferous.

TS - You would be willing to use two from that list instead of one single?

RR - Yes.

TM - Suggested dogwood or deciduous species and the other arborvitae or similar evergreen.

PB - I'll second.

TS - I think we will do a roll call.

CP - Aye

MS - Nay

TS - Aye

PB - Aye

TS - This passes 3-1.

Motion to recommend approval with stated conditions and findings made Peters, seconded by Bauer, and approved.

V. **Adjournment**

Hearing no other items before the PC, a motion was made by Bauer, second by Peters, to adjourn the meeting at 9:10 pm. Motion carried 4-0.

Respectfully Submitted

Planning Commission

Anna Aguilar
Administrative Coordinator

Tom Sammon, Chair