

Planning Commission Meeting Minutes

October 5, 2023

Completed by: Sue Bertrand, P&Z Staff

Site Visits conducted by Adam Ossefoort and Roger Hendrickson on September 29, 2023.

Meeting attended by board members: Chair Jim Pratt, Vice Chair Ken Hovet, Roger Hendrickson, Arnie Boie, alternate George Sutton and Commissioner's Liaison Tim Denny.

Staff members: Adam Ossefoort and Sue Bertrand, Planning and Zoning, and Dylan Pratt, Resource Conservationist from SWCD.

Other members of the public: Sign-in Sheet is available for viewing upon request.

Jim called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited as a collective group.

Introduction of the staff and board members by Jim.

Ken motioned to have the September 7th, 2023 meeting minutes approved. Arnie seconded the motion. Voice vote, no dissent heard. Motion carried.

George motioned to approve the revised agenda, seconded by Roger, voice vote, no dissent heard, motion carried.

Introduction of the meeting process and etiquette.

AGENDA ITEM 1: Tammy Jo Brusewitz – PID 22-0012700 & 22-0012900 – Staples Township

Request for Conditional Use Permit for a feedlot of up to 50 Animal Units in Commercial Zoning.

Tammy Jo Brusewitz and Scott Beech were present as the applicant.

Staff Findings: Adam read through the updated information submitted for the staff report. Dylan Pratt read through the responses on how to proceed with this and other feedlot proposals, outlined in a T-Chart, addressing the Commissioners' questions. Both reports are available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Establishment of vegetative screening on the south and west sides of the proposed feedlot. Screening shall be maintained to provide screening from all public roads. Screening shall be established no later than June 1, 2024.
2. The facility owners must maintain registration every four years and remain compliant with the Todd County ordinance and MN 7020 rules.
3. Any future livestock lot or barn construction will be required to be reviewed for compliance by the Feedlot Program prior to construction or install.
4. The conditions of the CUP must be disclosed to any future landowners or real estate transaction.

5. All land application setbacks and MN 7020 rules pertaining to the storage and handling of manure must be followed.
6. Proposed feedlot shall meet all applicable well setbacks.
7. Applicant must abide by all other applicable federal, state, and local standards.

Correspondence received: Yes. These three letters of support for the application may be viewed in full, upon request, at the Planning & Zoning office.

Public comment: None.

Board discussion:

George asked, in reference to the four adjacent feedlot properties to the applicant, if they were directly adjacent, to which Deja Anton confirmed yes, they are all touching the property.

Adam invited the applicants to comment on the conditions and if they were comfortable with them.

Scott stated, in reference to the tree size, it is not very clear as what needs to be established.

Adam clarified condition #1 in reference to screening, stated his intention of drafting that condition was that setting some sort of constructed screening so that it is there, in place, and that trees be planted, as we are not going to get the screening effect from those trees right away, but at least you are getting them planted prior to the stocking of the feedlot. So, you are getting the combination of those two things to provide screening and eventually some additional screening, visual screening, and some wind protection and smell protection, too.

Ken asked if that was because of the wishes of the Commissioners.

Adam stated, we had a screening condition previously established for them, being the trees are not going to be large right away, so we are trying to find a solution to where we get some vegetative screening, but also some initial screening, whether it be from steel windbreak type of thing or something like that established, also.

Ken stated he did not remember where the screening request came from.

Jim stated he is not really in favor of requiring screening,

Ken agreed. Otherwise we'd need screening around every pasture.

Jim added, it is not going to be a salvage yard, or something like that, it is going to be cattle out there.

Adam stated the source of the screening was because Hwy. 210 runs along the West side of it and a County Hwy. to the South is where the discussion originated from.

George stated he has heard both of them and acknowledged the staff recommendation, and this specific condition here, it isn't like any rural lot anywhere, it is within a proximity, it seems the applicant is agreeable to

it, and stated he felt comfortable with the staff recommendation. Also, he wouldn't want to be voting to approve something that's already been put before the commissioners with this specific condition. The applicants objecting to it, the commissioners heard it...

Jim stated he still didn't see any readings to screen it.

Tammy Jo would prefer not to have to put up any tin screening. Explained they just wanted to make the commissioners happy, and they are fine with planting trees, but they are not going to grow over night, and now it is fall, and they don't want to waste their funds planting trees in the fall and having to plant again in the spring. Not opposed to planting trees, but do they really want to put up tin around their property, no, they would rather not. Stated they have talked to other neighbors, and they did talk about how Larry had stuff right on the corner, and it's hard for them to see on 7, so is their lot going to be blocking site from the highway coming from Hwy. 7, then there will be upset neighbors.

Jim stated if they want to plant trees that is up to them, but he does not agree with requiring it. This isn't the only feedlot that is near a town, we are a rural county.

Roger stated a lot of people enjoy seeing especially the cow/calf operation, especially in the spring.

Tim Denny did agree with Jim on the no screening, and realized this was a recommendation from the board, however, did not want to see the applicants waste their funds on metal or be unrealistic and plant ten-foot-tall pine trees (a small fortune). Would there be a visibility obstruction at that intersection with this deal?

Jim stated there could be.

Tim continued, then go back to establish a vegetated screen and "make an attempt" of some sort. We are a rural county and agriculture is our backbone, so why are we trying to hide it, and stated he struggled with this as he doesn't agree with this.

George asked Adam if the condition was removed, is it going to loop back around from the commissioners again or could we receive an answer? He stated he did not want a further delay for the applicant.

Adam clarified, we send our recommendation from tonight's meeting back to the commissioners, and they must "make a decision" within 120 days of the original application.

George stated he would move to have this condition removed, and added he has heard from the neighbors. The applicants have, in good faith, done a lot to clean up this property already.

Adam confirmed and offered to remove condition number one, and stated we now have the six conditions.

Tim said the board would not be satisfied with no screening, it does not have to be steel. Just does not have to put anyone out because of a screen and asked Adam if there was any way he could take out some of that.

George stated we should pay attention to this.

Adam said we could amend any and all conditions, add subtract etc.

Jim said leave the vegetative in and take out the other screening.

Tim agreed to leave the vegetative in there, but do not have it say it must be established before livestock is in there.

Jim agreed.

Tim added it is their land, and they are following the ordinances.

Jim agreed.

Ken stated he was not at the last commissioners' meeting and asked Tim if they were backing up their decisions with the ordinance from somewhere.

Tim stated, to his understanding, no, it was not ordinance, it was opinion based, and he is not in favor. He added when following the ordinance, we cannot be judge and jury against an applicant when they are following every process correctly.

Adam edited the condition.

Roger confirmed the planting of trees, not going to be big trees.

George added, a good faith effort to initiate the process to appease the commissioner, so the applicant will be able to continue.

Ken asked the applicants if that works for them.

Tammy Jo said they do not have a problem with establishing trees but needed clarification on where.

Adam clarified the screening is intended to screen the feedlot, so along this western side, closer and along the southern side, closer and do not have to go all the way to the property edge.

Tammy Jo said she does not have a problem with that at all, establishing vegetation, she just does not want to have to plant six-foot-high trees.

George motioned to approve the applicant's proposal, as supported by staff, with the amended recommendations. Ken seconded.

Conditions:

1. Establishment of vegetative screening on the south and west sides of the proposed feedlot. Screening shall be maintained to provide screening from all public roads. Screening shall be established no later than June 1, 2024.

2. The facility owners must maintain registration every four years and remain compliant with the Todd County ordinance and MN 7020 rules.
3. Any future livestock lot or barn construction will be required to be reviewed for compliance by the Feedlot Program prior to construction or install.
4. The conditions of the CUP must be disclosed to any future landowners or real estate transaction.
5. All land application setbacks and MN 7020 rules pertaining to the storage and handling of manure must be followed.
6. Proposed feedlot shall meet all applicable well setbacks.
7. Applicant must abide by all other applicable federal, state, and local standards.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	Yes
Roger Hendrickson	Yes
George Sutton	Yes
Arnie Boie	Yes
Jim Pratt	Yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

AGENDA ITEM 2: Elim Lutheran Church Cemetery: – PID 10-4001600– Gordon Township

Request for Conditional Use Permit to expand the existing Cemetery by one acre to the South in AF-2 Zoning.

Chris Arens was present as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Applicant shall remain compliant with applicable local, state or federal regulations related to operation of the cemetery.
2. Maintain a list of individuals buried and exact location within the cemetery.
3. Cemetery plot must be completely fenced off with boundaries clearly identified prior to establishment of grave sites. All burial sites must remain inside of the fenced area.

Correspondence received: None

Public comment: None

Board discussion:

Roger stated he had no problem whatsoever, and he was on the site visit. They already own the property, have the cemetery next to it, they have the fencing, sees no problem.

Ken motioned to approve, Arnie seconded with the three conditions as presented.

Conditions:

1. Applicant shall remain compliant with applicable local, state or federal regulations related to operation of the cemetery.
2. Maintain a list of individuals buried and exact location within the cemetery.
3. Cemetery plot must be completely fenced off with boundaries clearly identified prior to establishment of grave sites. All burial sites must remain inside of the fenced area.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Arnie Boie	Yes
George Sutton	Yes
Roger Hendrickson	Yes
Ken Hovet	Yes
Jim Pratt	Yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

AGENDA ITEM 3: All Energy Solar INC: – PID 15-0001900– Leslie Township

Request for Conditional Use Permit for installation of a ground mounted solar PV array in AF-2 Zoning.

Colin Buechel was present via zoom call as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Applicant must obtain permitting and/or licensing from additional governmental agencies as necessary.
2. Submission of Interconnection Agreement with the electric service provider prior to issuance of a land use permit.
3. Construction of additional solar arrays shall require the review of the Planning Commission.
4. Written statement to be received from the owner or provider company containing the plan for legal disposal of the panels.

Correspondence received: Yes, one. This letter in full support, may be read in the Planning and Zoning office upon request.

Public comment: None.

Board discussion: Roger stated he was on the site visit, should be no problem at all, especially with the screening, in fact, if anyone from the public sees this, they must be trespassing, because it is a long way back in there, and not visible at all.

Ken asked for clarification on structures seen in the satellite photo, to which Adam did.

George motioned to approve, with the four conditions recommended by staff, Roger seconded with the four conditions as presented.

1. Applicant must obtain permitting and/or licensing from additional governmental agencies as necessary.
2. Submission of Interconnection Agreement with the electric service provider prior to issuance of a land use permit.
3. Construction of additional solar arrays shall require the review of the Planning Commission.
4. Written statement to be received from the owner or provider company containing the plan for legal disposal of the panels.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Arnie Boie	Yes
George Sutton	Yes
Roger Hendrickson	Yes
Ken Hovet	Yes
Jim Pratt	Yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

AGENDA ITEM 4: Lindsay & Jason Bergmann – PID 17-0016801– Leslie Township

Request to rezone property from Recreational Development Shoreland to AF-2.

Jason was present as the applicant.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. There will be from time to time, sights, sounds and smells associated with the operation of farming. Land owner shall abide by Section 9.11E of the Todd County Planning and Zoning Ordinance.
2. All future animal feedlots must abide by MN Rule 7020 and Todd County Ordinance Section 9.11.
3. Land owner must obtain permitting from other government agencies including but not limited to the Sauk River Watershed District.
4. Applicant must abide by all applicable federal, state, and local standards.

Correspondence received: One piece, and this letter may be viewed in full at the Planning and Zoning office upon request.

Public comment:

Jay Knutson stated he is a private owner on Maple Lake and has been there for sixteen years, and the first ten to fifteen years, they had to put up with a farmer behind them who didn't care about the cattle running around and the feedlot and everything, and the County never supported them on that. They said it wasn't a feedlot and it doesn't even look like a feedlot. They went to shoreland and they said that's good, now they want to go back to feedlot again. They put that big pond in there, it's a priceless pond and had to take care of it for fifteen years. They are disgusted with the land owner, disgusted with the County, disgusted with the water district and now they are talking about going back to the feedlot again. Feedlot will run into that because there is no place else to go. That will fill up and then run into the lake. We are trying to clean the lake

up. We are trying to make it look nice down there. Jay stated there was an access problem and Jim redirected back to the re-zoning application at hand. Jay continued there are people who have hunting rights on the land beyond there already, and with AF-2, you can build two houses in that 40-acre stretch there and you have to be 500 feet away before you can hunt there and people already have their hunting stands up. Just trying to keep it nice for the people that are there and we like to keep it nice for the people that are coming. But we don't want to be polluting the lake again, we don't want the smell in there again and we don't want all this stuff back again after they worked so hard at it before.

Mike Bongarts would like to see the map as he does not understand. He asked if we are basically trying to reverse it from RD back to farmland?

Adam confirmed and explained the current zoning and what the proposed request could do. This is simply a request to rezone, it doesn't involve other land uses or any other consideration tonight.

Jason Bergmann explained he had an interest from someone to purchase this, and explained the way it is currently zoned, he may divide this into ten pieces, however, to rezone to AF-2 allows only one more house allowed on that 40 acres and that is the motivation for doing this.

Jason stated they have been planting Maple trees along Echo Drive with the intent to beautify the location instead of this unfounded fear of destruction.

Jason stated the sediment pond is certainly an issue, a lot of effort and strife has been had about the pond. The amount of watershed that pond is able to hold is fairly limited. He continued, there are requirements in place requiring so many square feet of permeable surface. That is addressed already, and he addressed Jay stating a feedlot has never been in the conversation.

Jay stated it can be, to which Jason stated they would have to go through the council again, and that would have to be a different meeting. Jason stated he understood peoples' passion and interest to keep it beautiful, as they have gone through extra ordinary efforts to do that. This is just one more example of that. He stated currently in lakeshore zoning, there could be many houses put in there. He stated he doesn't mind control, but he and his wife, Lindsay, say wait, we don't want fifteen houses, let's just limit it to one, so that's the motivation for this. The spirit of the request addresses most of the concerns. He added you could buy it and do whatever you want with it.

Carol Gilyard, from public, stated they live in one of the houses behind this, and when the cows were there, they had a lot of run-off. She stated all of them are concerned with the quality of the lake, and it's a big deal. Maple trees are great, but they would still not want the runoff.

Jason defended, let it be known that problem was before they were even there.

Carol added it was a beautiful lake, and they do not want the quality of it to go down. It was quite a fight to get the holding pond and would like something similar.

Ken redirected and said he felt she was getting ahead of herself, as tonight is just a rezoning request and there is no guarantee for the use of the land. If there was going to be a feedlot there, that will be another meeting, and that would be the place to address this. Zoning has nothing to do with this.

Ken stated rezoning is a very legitimate land owner request. You can request to have it zoned anything he wants for whatever use he wants to make of it.

Mike Bongarts questioned, we are going from recreational back to farming?

Ken clarified we are going to AF-2 which is Agricultural Forestry with two homes allowed per government 40. That is his request.

George stated, in all fairness, beyond the homes, there is also the potential then, for the owner, or the future owner, or whoever it may be, to make application for a feedlot or something else. We don't know what they are going to do, we don't know what that is, it opens the door and we would have no grounds to refuse that if it's under that kind of zoning. Our ordinance would not prevent that from happening.

Ken said we could attach conditions but we would not be able to prevent someone from applying for a feedlot, but we can attach conditions to grant that. But that is down the road from here, this is only a zoning change request here, with no guarantee what's going to happen with that land.

George stated the peoples' concern is based on what could happen and that is a legitimate concern.

Mike asked for clarification again, on the current zoning and how it is set up and how it works.

Adam stated it is zoned the same as the lakefront. It is Recreational Development shoreland and the types of uses allowed on shoreland districts are allowed on this lot. One of those things that are not allowed, are new feedlots. AF-2 is Agricultural Forestry-2. He pointed to the overhead and stated, if you look here, those decisions are made based on the Government 40. Each of these are a Gov't 40, there is already an established dwelling here, and AF-2 would only allow one more dwelling on top of it. The other point, AF-2 does allow feedlots. Not every feedlot application has to come before the Planning Commission. It is dependent on the size or what the proposal is. But regardless of, whether it is one animal unit or one thousand, it has to be compliant with not only Todd County Ordinance but also the Minnesota 7020 Rules, which we have staff, here in the County that go out and view sites, make sure they are compliant, if they have run-off concerns they are not going to issue a permit and they will follow up appropriately. Adam stated he understands and appreciates everyone's concerns, but there are safeguards to protect people and public waters from run-off from feedlots.

Carol reminded him they had that before.

Adam stated he can't answer to what happened in the past, and apologized for that, and added we have great staff and a great program in Todd County now.

Deja Anton pointed out there was already a feedlot registration for that property that they maintain, even though it is in shoreland.

Adam clarified it is on the Michelle Halonen property. The Jason Bergman property is not registered for a feedlot.

Roger stated in his opinion, some of the public's concerns would be dealt with, if somebody wants to put a feedlot or whatever in there. Twenty and Thirty years ago, yes, you were getting pollution in your lake because of different things that happened. Now days, there are so many restrictions on stuff that the only way somebody is going to do something, is doing it illegal, by not going through this commission, because we will have restrictions on that. Mr. Bergmann wants to take away the shoreland district and go back to AF-2 and now you can only have one more house on that forty acres.

George stated he did not understand the motivation of the applicant for the change of zoning, and he hasn't heard that yet.

Bergmann stated having heard thirty-five neighbors and having heard their concerns and understand their passions. It is his opportunity to influence the long-term beautification of the area. If it stays as it is, people can build many homes in there, here he can limit or regulate that. He stated he is not an environmental monster. So that is the motivation for it, we they don't want it cut up into one acre lots.

Michelle Halonen said she owns the other farmstead property being rezoned and wanted to acknowledge that when Jason brought it to her, the entire reason she signed the application was because of the difference between one home being allowed vs a potential fifteen plus being added. Being a farmer, and the reason they moved here, was the lack of people around, love the neighbors from a distance and wanted more space, and to limit the number of homes that will be across the street from her.

Board discussion:

Ken addressed Jason and stated in the event we rezone tonight and he sells to the potential buyer, there is nothing stopping that buyer from turning it back into shoreland.

Jason agreed and stated they would have to go through the process and this is his attempt, his effort.

George stated it does not seem to bear logic and wondered if there was a frequency factor by which they can keep changing it back and forth.

Adam added a land owner has the ability to apply for anything on their property, as long as the ordinance is open to that, we would accept an application.

Jason stated, back in June, he was following bad council and did not realize or understand the long-term implications. He thought he would be correcting an error by doing this.

Arnie stated the request is perfectly logical, legal and there's nothing we can do to stop the request.

Jim stated we do not have a factual reason why we should deny it.

Ken motioned to approve, Roger seconded with the two conditions as presented.

Conditions:

1. There will be from time to time, sights, sounds and smells associated with the operation of farming. Land owner shall abide by Section 9.11E of the Todd County Planning and Zoning Ordinance.
2. All future animal feedlots must abide by MN Rule 7020 and Todd County Ordinance Section 9.11.
3. Land owner must obtain permitting from other government agencies including but not limited to the Sauk River Watershed District.
4. Applicant must abide by all applicable federal, state, and local standards.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Arnie Boie	Yes
George Sutton	Yes
Roger Hendrickson	Yes
Ken Hovet	Yes
Jim Pratt	Yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

AGENDA ITEM 5: Shannon Hinnenkamp Auto Salvage: – PID 21-0008601– Round Prairie Township

Review of existing Conditional Use Permit #C-20130910858.

Shannon was present as the land owner.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Recommendation Options:

1. A motion to recommend revocation based on the findings of fact.
2. A motion to recommend a continuation of the CUP with an established review date for compliance.
3. A motion to recommend continuation.

Correspondence received: None

Public comment:

Pat Porter, owner of the property North of Hwy 71 and would like to see all of the permits to be revoked. Seems some of the laws are not being enforced out there. Stated he was approached by the Long Prairie Police Dept. last winter and asked what he was burning. Pat continued, he opened his front door and all he saw was smoke and told the officer he was not burning anything, it was the guy over there burning copper wire. He asked him how he knew. He stated he used to do it and it is toxic. If you check the EPA regulations and, it should be in the County regulations, it's against the law to do it. So, the officer went out there and

checked, then left. Pat said he called the Sheriff's department and they went out there and checked and said it is contained. Pat said, no, it should be put out, and said he couldn't even breathe. Pat said he went into the house and turned the air-conditioner on so he and his wife could breathe. Roger asked what this has to do with this CUP.

Pat Boyer stated it does have something to do with it, as both of these lots are owned by the same owner, and the smoke air blows to town and now he is being told it doesn't have anything to do with it. The stuff is burning out there and there is residue that is going into the wildlife area and the water.

Jim redirected to the conditions at hand.

Pat continued and asked how does the board differentiate when this is coming from the same property. Pat said Gary S. (previous owner) owned all of the property, and however this guy purchased it is fine, but it's still a violation. You can't say you have to put up this fence, give him a certain amount of time and it doesn't happen and say he has to put up a living fence and it still doesn't happen. Pat stated he, himself, has planted trees, now five to ten years old, on his own property and they are now 20' to 40' tall, so he knows they would help cut out the view, and would be now, but someone threw a cigarette from the highway, and burned the whole line of them. He continued, now, he should have to live next to that? Look out his bedroom window and at 300 feet, see a pile? He asked the board how they would like that.

Shannon stated it was Industrial property.

Pat disagreed.

Jim redirected, and asked if Pat had any more on the fence or the screening.

Pat stated yes, that the fence is not doing its' job.

Jim agreed, and stated we know that, and that's why we are here.

Pat asked what the board was going to do about it, nothing, like the rest of it? He asked what we make the laws for? He stated he pays taxes too, and stated his is Commercial Light Industrial.

Jim asked if there was anything else on the application.

Pat stated yes, they are polluting our water area on the back of his, where the water runs from the applicant's to Pat's into the wildlife.

Jim asked if he had any proof of that.

Pat told him yes, to just go out and look at the beavers. Pat asked the board why they do not go out and check that stuff.

Jim stated they did go check it, and that is why we are here now.

Pat asked where the pictures were, and asked the board if they were going to say the beaver mounds don't exist.

Jim asked Pat to return to his seat and stated his time was up.

Kerry Pipo stated he had prepared a long speech and said he would just skim through it. Stated he kind of wanted to touch base on some of the same stuff Pat did. He stated the board said it isn't pertinent to this new chunk and went on to say it really is, because of how Shannon is operating at his current business, and now we want to move it closer to Kerry's house and the Plaggerman's house with all of their kids? He stated he will start by saying how he thinks it is absolutely ridiculous we are in 2023 discussing a CUP that was applied for in 2013. The conditions for this were never met and have never been met, he stated. The height of the fences is not right, he's got 9' on both sides in the N to S lines, then the one behind his (Pipo's) house it goes from 9' to 8' and it goes down as low as 7' directly behind his house, which he believes is out of spite, if he is correct. Every morning he wakes up and he looks at this gigantic pile of steel out from the view of his house, that has got to be close to 40' to 50' tall? There are laws regarding that, everything is supposed to be screened and under fences for a junk yard. The State has regulations for this as well as the Trunk Act where you can't see it from 71. How come that has never been looked at? He said, "If you drive past there and tell me that you can't see his junk from 71, you're blind." He stated he is seeing that out the back window of his house.

Roger stated he pushed for the 25' setback and trees for screening at that time.

Kerry stated none of that is being looked at, and honestly, he doesn't think the fences are correct at this current location, but that is just one of the things he has to live with there. He stated he also had a fire situation this winter. In fact, he responded to it (pointed to Mike Allen's direction) He called into the Sheriff's office at 7:00 because he had lit up a dump truck sized load of copper wire, which is the number one thing on the EPA site that you are not allowed to burn. He stated it is a felony. Finally, he called at 7, later on, midnight and nobody would come out, which obviously they had a lot of stuff going on and finally at 3:00 in the morning, he went down to the Sheriff's office in person and said you guys have to deal with this. He stated he was in his house, when he discovered the smoke, watching TV with his kids in bed. It was a windy night and foggy. The wind blew that smoke directly at his house across the field, sucked it into the furnace intake and filled the house up with all the kids in it. He stated they hacked the flavor of burning car up for two weeks and stated they all felt sick after that. Kerry stated he didn't care (motioned to his left). Stated he was pissed because he had to come and put it out. Kerry stated it should have never been put out by him. Moving on, the Sherriff's office, after he had gone and went on vacation, refused to document it, refused to go out and take pictures or anything. Kerry stated he himself had to go out and take pictures and send them to the Pollution Control and obviously he had it cleaned up before they got out there. Kerry questioned why they would want us to approve his business closer to his house. Kerry addressed the board and questioned why he would want to approve that to be closer to his house. Kerry asked if he is going to operate legally closer to his house as he already is illegal at the place he is at? Kerry stated, he believes this chunk is Commercial, his main business that means he has to keep this under the fence height. The State junk yard commissioner was out to Kerry's place and said he has to keep it under the fence and it is up to the County to enforce the Trunk Act. It is not Kerry's responsibility to block the eye sore out. Kerry got sick of looking at the crappy fence behind his own house, it was just poles sitting since he bought the place and Shannon came in July and started on it. Kerry stated the closest fence is 6', it's 5" off the line, it is supposed to be a tin fence. Somebody working for

Shannon comes on Kerry's property, and Kerry asks him to leave, and they start screaming cuss words at him in front of the kids, that is not going to fly. Throwing his stuff around, so the tin got put on the back side and it looks like absolute crap, which it doesn't really matter because he has five-and-a-half-foot tin with eight-foot poles. MN definition of the fence in their laws: the highest point is the height of the fence. So, it's an illegal fence anyway. He stated he can't come in with a 6' fence and block that. He went on, the one behind it is mix matched tin and only blocks about 75' of that chunk in view. Plus, there is an environmental setback from his well by the State. Kerry had a guy come out for that too, they said since this junk yard was given permission from the County, and it is not on Industrial, it is up to the County to enforce these things. So, the County will tell him that it's up to the State to enforce it and the State says it is up to the County to enforce it. So, Kerry asked the board if they would like this at their place. Kerry stated he moved in and there were just bare posts, you couldn't even see the purlins on the fence, it was in the middle of the winter and it was a foreclosure.

Arnie stated he says he sees a CUP not being complied with the current conditions.

Kerry agreed.

Arnie added, the next thing, is who is going to enforce these things.

Kerry stated he had been in contact with the previous owners of his home and said they told him that he had walked right into their house, demanding that he allow him to drive through in a loop through their property. That was what he wanted.

Shannon disagreed.

Kerry continued, it led to a whole bunch of bullying and he was piling stuff back there before the fence, the fences weren't right, the whole nine yards. Stated it was a gigantic contest, and the previous owner had to walk out on their loan because the property value had gone down that far on their house, as a result of this.

Board discussion:

Shannon stated in reference to the complaints, Mr. Porter was against him when he bought that section in the first place. He's all concerned about the environmental stuff out to the East. Shannon stated Mr. Porter has about fifteen or twenty cars rotting out in his back yard, gas tanks rotting out, oil pans rotting out running onto the ground, long before the first permit was issued for Shannon's place, before he even moved in there. Secondly, nothing like that ever happened where I walked into this guy's house before Mr. Pipo owned it. He was trying to sell that house for three years, that was before Shannon had bought that property over there. Shannon stated he went in, bought the property, cleaned up all of the mess, there was scrap iron, tires, everything, plywood, there was garbage laying back there. You would not believe it, it took him three weeks to clean it up. He stated he had the machinery to do it and it took him that long, as there was that much garbage behind there. He stated he cleaned it up, he leveled it off, he put a fence up, or in the process of putting a fence up and didn't finish because his shop burned down. Wasn't sure if any of us remembered that, but it was about eight years ago. He stated he got side tracked because he had to build a building and stuff like that. He stated this is a bunch of crap. He showed the board the fence is about this far off the ground, and stated that is why the sheets are about nine feet. He left it off the ground and he didn't want to go over ten

feet, because of regulations and stuff. He stated maybe it is just a hair short, but it's off the ground so it doesn't rust. It's high enough that if the grass raises it is not going to rust out. As far as the trees go, and putting the fence back twenty-five feet, that was the County Commissioners who wanted that because Mr. Lubbers was in that house and was complaining he couldn't sell the house, because he had been trying to sell that house for three years, before Shannon got his property.

Jim stated it is still one of the conditions.

Shannon stated he understands that, just to let him finish, there's more to it than that. He stated Mr. Lubbers was friends with one of the County Commissioners, so they made him move that fence back twenty-five feet. Shannon stated when he was at the Planning and Zoning here, it is in the Ordinance on Commercial Property, that the fence is allowed to be right on the property line, and that was what was approved at this Planning and Zoning Commission, at the time.

Jim stated no, it wasn't, to listen to this.

Shannon stated it was approved here for that, then it went to the County Commissioners. They suggested that he move it back twenty-five feet. He stated, first of all there's no trees that are going to grow on there because it is all sand, and he was not going to water trees everyday for the rest of his life and he told them that, and they weren't supposed to put that in there in the first place, but somehow it got in there. But also, they made him move his fence back twenty-five feet. He stated Mr. Pipo's house shouldn't even be in there, it was supposed to be a truck shed built in there, years ago, and then it was sold off to a guy's stepson, or whatever, and he puts a house in there. Shannon stated he didn't know how that was ever allowed. Then his well is right on my Commercial property which should have never been allowed either. Now he's supposed to move back another twenty-five besides the twenty-five feet that his fence is back. Shannon asked how much land is he supposed to give up? He stated he paid for that land and nobody else did, and stated he doesn't even have anything on that land. There is not a piece of iron on that property and hasn't been since he bought it, because his shop burned down and he went a different direction, instead of a full time auto-salvage. So, there is nothing even on that property to worry about.

Arnie asked who told him to move it back.

Shannon stated the County Commissioners. They decided it at their meeting, because Mr. Lubbers was complaining about him not being able to sell his house. Shannon stated he, himself had his bank do an appraisal on his house and it was worth \$76,000. He had it for sale for \$108,000 and it's a double wide and banks don't loan money on "double wides". That's why he couldn't sell it. Then he ended up giving it back to the bank because he had way too much borrowed against it. Shannon stated it didn't have anything to do with his salvage yard or anything like that. In fact, Shannon stated his salvage yard was not even there yet. He didn't even own that property yet, when he started to try and sell that place.

Arnie stated this is before the Planning Commission, that we are supposed to do something.

Shannon stated he was just saying, it was approved to put the fence right on the line, when this Planning Commission met, at the time, and then when it went to the County Commissioners, they wanted to move it.

Jim stated twenty-five feet.

Shannon added, when it says right in the Ordinance that he should be able to put it right on the line and that is where it should be, and we wouldn't even have this problem with trees or any other thing.

Jim clarified when the Commissioners stated it is supposed to be twenty-five feet, that is what he is supposed to follow.

Shannon stated he understood that. Stated there was a gentleman here, from a different township that was here complaining too, because it was supposed to be put right on the line.

Jim opened it up for Board discussion:

George said he would like to make a motion to recommend revocation, based on the findings of fact. These are facts staff has well researched, and there are reasons why this kind of business is regulated the way it is, with respect to everybody else. George stated he also thinks if there are other agencies involved in looking at this or consideration, if there are adjacent properties with abandoned vehicles or whatever, that's also not in the public's interest and not allowable. So, we should also look into that, if that is a fact.

Pat Porter offered to check it out, as that is his property and stated that never happened.

George said he wasn't talking about Pat.

Jim confirmed we had a motion to recommend revocation and asked for a second.

Arnie seconded.

Pipo asked what that means as far as the fences and moving forward and fixing stuff.

Adam stated it is not something that is addressed this evening.

Shannon asked what about putting the fence on the line where it is supposed to be, that would solve everybody's problem.

Jim stated we already made the motion and now we are going to vote on it and the public comment period is closed.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	Yes
George Sutton	Yes
Roger Hendrickson	Yes
Arnie Boie	Yes

Jim Pratt	Yes
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Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

Shannon asked what we are going to do there, and asked if they can move the fence where it is supposed to be? He stated he was just trying to understand.

Adam stated it was a great question and the conditions as they exist are not up for consideration to be edited, they are what they are, so the consideration for tonight was to revoke, or continue, the County Board will now make a decision, this recommendation board to the Commissioners. The only way to get those conditions edited would be to apply and go through the process to have them amended or apply for a new Conditional Use. That's got to go through that formal process separate from this tonight.

Shannon stated that is would he would like to do.

Adam offered to answer any further questions outside of the meeting here.

Jim called for a five minutes recess.

AGENDA ITEM 6: Proposed Amendment to Todd County Planning & Zoning Ordinance:

1. Section 9.20: Solar Energy Systems.

Staff Findings: Adam stated we left off last meeting looking to get any additional input from State agencies which he was not able to accumulate any other information or get any other call backs from those he had reached out to previously, so no changes have been made since the last meeting to what you have in front of all. He stated he did have one piece of correspondence and stated he believed at least one public comment here tonight.

Jim directed to proceed with the correspondence. This letter may be viewed in full at the Planning and Zoning office upon request.

Jim pointed out the decommissioning section could be found on the handout under #10, on the bottom of page two, and asked for any questions.

Roger asked what is done with old solar panels when they are no longer working.

Adam stated his understanding is, much of the solar panel goes back to the manufacturer and much of it is steel so it may be recycled or repurposed, things like that. They generally drive them into the ground, and do not use concrete, so, much of it may be recycled. For the parts that are not, he stated he has not gotten a straight answer on that, other than, much of it goes back to the manufacturer.

Ken added there is very little of the panels that cannot be recycled. The panels themselves are mostly glass and plastic that can be sorted out. The stands are mostly steel, so you can take them to any junk yard or things like that and there are parts that can be recycled. He stated there is not a big market for recycling panels yet

because they are not old enough. In another 15 to 20 years, there will be companies popping up that can do that. It is all common products and nothing exotic.

Public comment:

Nathan Dull, field director for Minnesota Land & Liberty Coalition, read through his letter of correspondence that was sent to the commissioners and may be viewed in full at the Planning and Zoning office.

Ken addressed Nathan and asked him to say the group he is a member of again, and he stated MN Land and Liberty coalition.

Ken mentioned he talked about this Ordinance limiting generation.

Nathan stated the way he had interpreted it and understand from staff is the solar projects that will be built on a project cannot exceed 120% electricity generation capacity or whatever the use of that land is.

Ken explained if you own a residence in Todd County (like he does) and decide you want to put solar power up, you can go to a solar power company that sells these things and ask them to design one for you, which Ken has done, part of the design process takes into account how much electricity you use (monthly, yearly, like that) and take all of that into consideration. So, they determine that you use on the average of 800 kw a month. The system they are going to design for you is going to generate at a maximum of 120% of that.

Nathan agreed.

Ken continued, that's in concert with what the utilities will allow. You can design for 150% or design for 200% or design for whatever the heck you want, but they are only going to pay you so much...

Nathan agreed.

Ken continued, for the electricity you put onto the grid. So, the 120 %, that's where that comes from. It isn't arbitrary, by any means.

Nathan stated he didn't understand it to be arbitrary, it's just the first time, he stated they have been working with a lot of Counties on solar ordinances and it is the first time they have seen this.

Ken stated this is only for residential systems, not for the solar farms. The ordinance addresses three different systems: the residential like Ken has, the community solar array, where there are ten or twelve houses hooked up to the same system, and that 120% would apply, but in a little bit different way. But the solar farms where you see acres of them, they have no limitations on them. It's whatever they can produce and stuff into the grid is fine.

Nathan stated he appreciated the clarification, and added it may have been an oversight on his part.

George addressed Nathan and asked where his organization was based and how many members there were.

Nathan stated they don't charge for membership, we more serve as the people who... because a lot of the time what it comes down to is land disputes and people choosing to invest in solar or wind, because those are obviously the big options right now, and the rappsorts that have been built up in neighborhoods for decades can sometimes come into conflict when somebody chooses to build on their property or invest in their future. So that is where they come in, he stated, they service that mouthpiece, we host educational forums.

George asked about the "we" to understand who the "we" is.

Nathan stated it is the Land and Liberty Coalition made up of himself as the field director, but they also have supporters who believe in their mission. He stated they don't charge for membership, with a state-wide group and technically their office is in St. Paul, and added he was never there because he is always out in the field, and they have been doing this for about three years.

Jim stated if their electric use goes up, they can always come in and re-apply for more and add on to their system, so they are not limited at that forever.

Ken stated he noticed there is no decommissioning requirements for residential systems and community systems, only solar farms, and there is no bonding requirement for them either to which Adam agreed.

George made the point we don't have decommissioning requirements if somebody does an addition on their house, so where would we begin and stop with this.

Ken added, or screening requirements.

Jim brought up screen requirements that we talked about a couple months ago for the solar farms.

Adam added he edited part 4:4 screening requirements. He stated we did not have screening requirements for community unless there is a screening requirement in the State Statutes and we did not have screening requirements for residential type systems. There are some standards for some roof top type designs and things like that.

Adam stated we had a statement of "be located to limit visibility from public waters in shoreland districts" for ground mounted systems.

George asked Ken if he took into consideration screening when he built his, to which Ken stated he has not built it. But that is part of the consideration is where is he going to put it, so yes. Ken added for himself personally, he thinks they are as ugly as all get out. He doesn't want to drive up and down the road and see nothing but solar panels, even though he might own one. He stated they have their place and their purpose but they also have their issues. Ken stated he would be all for limited visibility and screening requirements for residential and community ones.

Doug Holt, a member of the public asked about the application earlier from All Energy Solar company, is it in any way tied into these standards or is this just going forward?

Jim stated this is just a draft going forward. Now, they have to apply for a CUP in order to put them up, if we had these in our ordinance, they could just come in and get a permit (invited Adam to correct him if he was wrong).

George - if they meet all the conditions.

Doug - it would be a one-stop-shop.

George - it would be a staff decision rather.

Jim continued they would go to the office and get a permit instead of applying for a CUP and then having to come to this meeting.

Adam added, until you get to the next level.

Jim stated except for the big ones, the solar farms and community solar systems.

George stated he would not feel comfortable about having a further screening requirement, because he could say the same thing about a dollar general store, or feel the same way about the trucks in somebody's yard, or whatever. He confirmed "*That is my opinion*", its not creating a safety hazard, it's not creating something that he thought would impair anybody else's enjoyment. If I don't want to look at that when I am driving down the road well, there are a lot of things that could be put on that list, or he could put on his list, for that matter. So, he would be opposed to putting further restrictions.

Jim asked what about the other part, how are you going to screen a roof top one. They are going to be sticking out more than the ones on the ground.

Ken stated you really have to look at the roof top, to see they are actually solar panels.

Adam went over the proposed standard, and quoted #5 roof top solar energy systems shall be designed to blend into the building or roof design. On pitched roofs [with slope greater than fifteen percent (15%)], panels shall be flush-mounted and shall not extend above the peak of the roof, as an attempt to hide the roof-top style.

George said people are going to have opinions about this. 120% is protecting the utilities from having to over bill the grid, for now.

Jim added, if it did become a big deal to the Commissioners or whoever, the zoning ordinance could always be amended.

Adam –and the public can apply to amend it.

George said he would support this a is. He thinks it's very thoughtful. It's not un-like what we've looked at a couple times, right? So far? This is the last time we are going to consider it.

Doug said he was confused on the 120%. He explained like on a farm, grain drying time everything spikes, he stated he assumes the 120% is over the whole year.

Jim -Yes.

Ken -That's on an annual basis.

Doug -So grain drying time, when my light bill skyrockets, it doesn't matter then, right?

Ken -That will get added into your yearly average.

George – If you want to build one to meet your own peak need, you are welcome to. There is nothing that prevents you to. If you are building 21% beyond that peak rate, you are not allowed to without going through the Conditional Use Permit request.

Doug asked again if he was limited or not to the 120%.

George explained, you can build to your peak, because it is annualized.

Jim stated he is talking about grain drying time, your solar panels wouldn't produce enough electricity during that time.

Roger – It's going to kick your average up a little bit higher.

Ken -That particular month you are going to have bi-power to make up the difference, but the other months it will be just the opposite, they'll pay you.

Jim – You're probably not going to be putting in solar panels to feed you enough electricity during grain drying.

George – It wouldn't make sense. Just economically, it wouldn't make sense.

Doug – Just saying, that the peak would be included.

Jim – That would be included in the twelve months.

George – What you could do, if you have that significant of a use, and you have enough space, you could do a solar farm. Right? You could choose to do that, both to meet your peak need, and to be able to sell back to the utility. There is nothing that prevents people from doing that. It's just a different process, then. Then you would have to go through a Conditional Use Permit Request.

Adam asked if that was a clarifying statement we want to add to these. Taking the ground mount one, where it says: shall not supply more than 120% of the average annual consumption of the primary use, based on the most recent twelve months, at the time of application, and add the clarifying statement:

“Designs to supply greater than 120% of the average annual, shall be processed as a Conditional Use.”

Jim – Yes.

Adam – Clarifying statement in there?

George – To do that, the reality is, what are you going to do with the excess that you make, because the utilities, as you stated, are not required to buy it back. And we are not in a place to regulate what the utilities are or are not required to do.

Jim -Right, but it could still be in there as a statement.

Nathan Dull – That is where battery storage projects come into play, if you exceed that, just throw it into that and use it at a later time.

Roger – The sad part is you can’t store it, so when the sun goes down and you have the dryer going all night.

George – You can store it if you have batteries. So, this gentleman, in addition to having, if he took his extra 20% and banked it in batteries for the six month or nine, whatever it was, leading up to the corn drying time, the reality is, economically, nobody’s going to do that.

Ken – Right. The reality is, he couldn’t buy enough batteries, that’s just not realistic.

Jim – If somebody wants to spend their own money and put in a bigger one, we’re not going to stop them, they just have to get a CUP.

Adam – then you’d have your opportunity for screening and other things too. He stated he added that statement to both the roof mounted systems and the ground mounted systems. He stated if he remembers correctly that Statue of Community Solar Energy already caps that at 120%, so that’s out of our hands anyway.

Jim – Right.

George – We don’t even really need to say that, but we do, as a courtesy to people, letting people know.

Ken – What is really going to regulate that is the agreement between the utility and the owner. The utility is going to tell them they are not going to buy any more than 120%.

George – How they are required to buy.

Ken – There is more to that. By law, they have to pay you what you would have paid them for that 120% but not more than. They may agree to buy 130 -140% but the extra is going to be at wholesale.

Jim asked if there was any other discussion, and asked “Tim?”

Tim replied, “We’re good. You guys got ‘err”.

George made a motion to approve as proposed with the changes made tonight.

Jim – One question, addressed to Adam, asked if he was waiting for any other correspondence back from any other agencies?

Adam stated, no, he tried and they never even attempted to call him back, he thought. This has been through Jason’s office and we have already had his comments incorporated, so Adam stated he was comfortable with where we are at, if that is what Jim is asking.

Jim - if they were worried about it, they would get a hold of you.

Adam agreed.

Doug asked if we were sure the company will take back the damaged or the old panels.

Ken – For recycling, you mean? No.

Doug asked if Todd County needs a place for these?

Ken – He would say, in fifteen or twenty years, maybe.

Doug – It all depends on If we have a hail storm tomorrow and it wipes out a bunch.

Jim stated from what he heard, the damaged ones they do take back and replace them. But as far as, if you say, if they find a bunch of oil and start pumping oil again, and say, “I don’t want them and I’m not going to use them anymore, I am going to tear them down,” then, you are responsible for it. Jim added, right now, with the one application we had in here, the guy said if one gets damaged from hail or something, they would come and take it and replace it with a new one. Whether or not they are all like that?

Jim stated, we have a motion by George seconded by Ken to approve with the changes and clarifying statement.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Ken Hovet	Yes
George Sutton	Yes
Roger Hendrickson	Yes
Arnie Boie	Yes
Jim Pratt	Yes

Motion carried. Jim stated the application will be presented to the County Board of Commissioners on October 17th, 2023.

Arnie motioned to adjourn the October Planning Commission Meeting, George seconded, voice vote, no dissention heard. Motion carried and the meeting adjourned at 8:21 PM.