

Denmark Township Planning Commission Meeting  
Wehking Variances & Sunshare Solar Zoning Code Amendment  
Public Hearings  
December 21, 2015

**Planning Commission members present:** Don Schneider, Charlie Grote, Bob Barr  
ex-officio Kathy Higgins

**Absent:** Steve Radke, Roger Lang

**Board Members Present:** Joe Moore

**Others Present:** Attorney Troy Gilchrist (Kennedy-Graven), Planner Erin Perdu (WSB)

**7:00 PM** Chair Barr opened public Hearing- Wehking Variances- 16117 87<sup>th</sup> St S (RLS 37 Tract F)

Applicant present- Clive Wehking

Applicant is requesting a 50 ft variance from the bluffline setback for the construction of a new single family home.

Applicant purchased the property in 2006. Parcel is 2.439 acres and is located within the bluffline of the St Croix River. Parcel has been in existence prior to 1970, predating both the 1982 Township Ordinance and the 1976 Lower St Croix River Bluffland Shoreland Management Ordinance. Applicant has been in contact with both the County and the DNR regarding his proposal.

Planner- Due to the characteristics of the existing parcel, the following variances would be required to bring it into compliance.

- A variance of 50 feet from the required 100-foot bluffline setback in the St. Croix River Management Overlay District
- A variance of 0.61 acres from the required 3.0 acre minimum lot size in the Single Family Estate, SFE District
- A variance of 32 feet from the required 200 foot minimum lot width in the St. Croix River Management Overlay District
- The property uses a private road as access from 87th St. It has no frontage on a public road, thus a variance is required.

A proposed layout for well and septic systems has been approved by Washington County.

Applicant is keeping all but one of the trees that are 24" caliper, and all other trees proposed for removal are 12" caliper or smaller. Applicant also intends to plant new trees along the new entry drive to buffer the home from 87<sup>th</sup> St.

Planner provided Planning Commission with 12/14/15 review report with Findings of Fact and recommends conditional approval of the variance requests. Engineer has not reviewed specific grading plans for the new home, which will be reflected in the conditions, prior to issuance of a building permit.

Public Comment- Joe Skow ( neighbor to subject parcel) Reviewed plans and supports proposal.

Denmark Planner reviewed the application and provided the Planning Commission with detailed report dated 11/11/15 and recommended conditional approval of the Preliminary PUD, Preliminary Major Subdivision and Minor Subdivision.

**7:13 PM** Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission Opened.

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**Motion Grote/2<sup>nd</sup> Barr to forward the Wehking Variance Application to the Town Board with a recommendation to approve based on the Planner's 12/14/15 Findings of Fact and subject to the following conditions:**

1. **Permits.** The Applicant shall obtain all necessary approvals and permits prior to beginning construction.
2. **Site Plan.** The dimensions and layout of all site features shall match the Site/Grading Plan drawn by Cornerstone Land Surveying, Inc. dated October 27, 2015. This includes the placement and footprint of the proposed home. Minor modifications to the site plans may be administratively approved by the Town Planner.
3. **Grading, Drainage, and Erosion Control.** The Town engineer shall review and approve grading plans for the proposed home prior to a building permit being issued
4. **Construction Materials.** The exterior decks shall be constructed of materials that are visually inconspicuous in summer months as viewed from the river.
5. **Color of Structures.** The exterior color of the new home shall be of earth or summer vegetation tones.
6. **Fees.** The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Town for processing this permit application. In the event any fees are outstanding they will be paid by the Applicant within fourteen (14) days of receiving a bill from the Town. In the event the fees are not paid, this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Town.

**With All Present Voting Yes, Motion Carried 3-0-0.**

**7:15 PM** Chair Barr opened public Hearing- Sunshare LLC Solar Zoning Code Amendment

Applicant Sunshare representatives present- Dave Bergh and Will C

Property Owner present- Gary McDougall (possible location)

Applicants are requesting an ordinance amendment to allow commercial solar gardens in Denmark Township. The Applicant is considering the 52 acre McDougal property for a future commercial solar garden, but at this time only the ordinance amendment is being proposed. If approved, the amendment to allow commercial solar gardens would apply to all properties in the Township.

Gary McDougall- Purchased property 28 years ago. Owner has been using sound farming practices on the property for the last 20 years. Owner noted that the land is of poor quality. At this time the owners are interested in using their property for solar farming. The benefits cited by the owner include conservation of poor, sandy land. Taking the land out of production would improve the soil. Less use of water, so less opportunity for nitrate leaching, less need for pesticide and herbicide. Not using the pesticide/herbicide applications needed for crop farming, would lessen the concern for the nearby orchard. Less use of tractor fuel. Only need for solar farming would be sunlight. Solar farming would bring about a dramatic reduction of carbon in the atmosphere.

Owner did not believe that a solar garden would have any impact on the bees for the orchard.

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Sunshare- established in 2011 in Denver, moved into Mpls in 2013. Business has 8-9 gardens running in Denver. Currently has permitted gardens in Minnesota slated to begin development in spring 2016. Gardens must be located within Xcel service territory. Program is capped at 5 MW per solar garden. A garden can serve rate payers in the county that it sits in or any adjacent county. Interconnection agreement with Xcel is 25 yr duration, as is the obligation to the Xcel subscribers and the longevity of the panels.

Criteria for garden locations include interconnection (how close land is to a substation) and site topography.

Glare- Unlike concentrated solar, Sunshare uses PV panes which have very little glare.

Sunlight in Minnesota is substantial enough for a solar farm. Best days for production are cold, cloudless days in the winter. Equipment functions more efficiently than on hot days.

If necessary, Sunshare screens systems using trees, shrubs and berms.

Property Values- Sunshare representative states that in most instances, the residents are subscribers so it has helped their values by reducing their electrical costs (approximately 5%). Sunshare has no information on impact for non subscribers.

Structures would face to the south. Structures are pile driven so can be removed at the end of the 25 yr lease. Business restores the land after removal of structures. Structures are fix tilted and do not follow the sun. Panels range from 8-12 ft and are not tall relative to residential development.

Not aware of any studies that have demonstrated any problems or conflicts with birds migratory patterns.

There is no heat created by the panels.

Noise- Panels are connected to inverters which make a slight humming noise when electricity is being generated. Inverters are placed in the center of the garden. There is 1 inverter per 500KW (2 per MW), so a 5 MW garden would have 10 inverters. Inverters are placed 2 in a pad. Not aware of any interference with cell phones. Fan noise kicks on and off.

Low growth vegetation such as clover is planted under the panels. Water runoff is much lower in comparison to row cropping runoff. Business does comply with noxious weed laws, and maintains (mows) growth of vegetation.

Panels are made of tempered glass and can handle baseball size hail. If damage does occur, separate panels are fixed immediately to keep system in full function. System is a panel by panel, cell by cell system and is monitored to ensure full function. Each MW consists of 4,000 panels. A 5 MW garden would consist of 20,000 panels.

Planner- Noted that a request for an ordinance amendment is before the Planning Commission. Although a specific proposed parcel has been discussed, the ordinance amendment would be applied to the entire Township. Town has discussed solar amendment with the county in the past. Because the Town and county have dual jurisdiction, any amendment that the Town would adopt would be conditional on the county's adoption of an amendment as well, because the Town cannot not have an ordinance that would be less restrictive than the county ordinance. Planner provided Planning Commission with 12/14/15 staff report.

Attorney- Policy question is before the Planning Commission. Should the ordinance be amended to allow solar gardens. If the PC forwards the application to the Town Board and the Town Board indicates approval, the ordinance amendment language will come back to the Planning Commission for a public hearing. If the PC forwards the amendment to the Town Board and the Board adopts it, it cannot go into effect until/unless the County adopts ordinance amendment to allow solar. The Town amendment would

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then need to be compared to what the County adopted to be consistent. Additionally, if ordinance amendments to allow solar gardens are adopted by the County and Town, any proposed site would need to go through a conditional use permit procedure.

Public Comment-

Clem Kern (St Croix Tr S-directly south of the proposed site) Sandy ground, poor soil, from the perspective of the ground that's ahead of his property. Every spring there is a rush of water from the field to his property. With a solar garden, the field now would become a field of grass rather than a field that has been plowed, which would eliminate the water runoff from going through his property, underneath the river, into the St Croix. Property could be fenced and screened with trees. Would support proposal from perspective of benefit to his property.

Kay Crowe (Eagle's Watch) Development has been approached by a solar company. Has concerns that if the ordinance is amended to allow solar gardens, they will again have to go through process of dealing with proposals. Cited noise associated with the panels, and that it is an eyesore. Believed solar gardens reflected industry rather than agricultural.

Al Gorgus (Neal Ave S) Denmark is unique-too the north we see the power plant in Bayport with smoke coming out of the chimney. To the south we see the nuclear power plant in Prairie Island. Both produce power. Here we are asking for something that produces power in a much more energy efficient, environmental friendly way. Regarding the proposed site being farm land, here we would be farming solar energy. What's wrong with that. We need a way of producing energy that's not going to produce the smoke out of the Bayport plant or the steam out of Prairie Island plant. Solar is the answer. Is in favor of it.

Sheryl Crowe (Eagle's Watch) Questioned where are the other areas being used for solar gardens in Minnesota. Noise concerns. Asked for locations of properties that have been permitted. Other locations not identified by Sunshare representative. Questioned responsibility for removal of systems after end of life. Applicant noted that most ordinances require a robust decommissioning plan. Noted that the value of one's property does go down dependent upon what goes in next to them.

Gary Thyren (Norell Ave S) Inquired why the Town Board and County couldn't work together regarding the proposal rather than sequentially causing it to be prolonged. Attorney noted that the county and Town are 2 different processes. There is no practical way to have a joint hearing or to line the procedures up. They are parallel, yet separate. County looks at it from a countywide perspective, while Denmark looks at it from a township perspective.

**8:18 PM** Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission Opened.

Grote- Planning Commission can recommend that the Town Board look at the proposal. Barr noted that the Planning Commission should choose which recommendation they would like to forward to the Board. Schneider- Proposed site is poor farm land. Need to consider landowner property rights. Does not believe that anyone who had good land would enter into solar farming.

Barr- this amendment is not for a specific property, it would be for all of Denmark Township. If a recommendation was made to allow, do we recommend allowing in all areas?

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Barr noted that the proposal should be looked at to see if it fits with the Township's Comprehensive Plan, which was guided with input from the residents.

Members reviewed the Comprehensive Community Goals as cited in the Planner's 12/14/15 staff report. Barr-Denmark is of rural/agricultural nature and solar gardens seem of an industrial nature. Proposed site is on the designated Scenic By-Way. Is in support of solar energy, but does not believe Denmark is the right area and the appropriate candidate for solar gardens. Would not support if it might impact property values and if it changed the way that Denmark would look like in the long run. Questioned how the community could benefit with something like this, especially if it were throughout the whole Township. Would recommend denying as it is not representative of what the majority of the residents would want. Does not think this type of solar is a good fit for the Township and bases this on the Comp Plan.

Grote noted that when the Comp Plan was done, these solar opportunities were not known of and recommends continuing with the proposal and having the Board take a look at it.

Schneider in belief that property owners should have some rights.

**Motion Grote/2<sup>nd</sup> Schneider to forward the Sunshare Solar Ordinance Amendment Application to the Board with a recommendation to consider an Ordinance Amendment to allow solar gardens in the Township, based on the 12/14/15 Planner's Findings of Fact.**

**Voting Yes- Grote and Schneider. Voting No- Barr. Motion Carried 2-1-0.**

Attorney will provide the Board with draft resolution reflecting the Planning Commission's recommendations. Attorney noted that the solar facility already going into Denmark was not subject to local zoning as it was a state approved project.

**OTHER BUSINESS:**

Washington County/Denmark Land Use-

The County approached Denmark regarding relinquishing some land use control to the Townships. County has established a process and has requested that Denmark adopt the draft resolution they provided. The County will be retaining Lower St Croix River Ordinance, Subdivision Ordinance, Shoreland Management Ordinance, Mining, Subsurface, Sewage Treatment and Floodplain Ordinance. Town asked that County revise their subdivision ordinance to eliminate single lot splits from the platting process, which the County has not addressed. It appears that there is a fairly small amount of authority being given to the Town, some of which is still unclear.

Attorney noted that it will be important to review the County amendments to assure Denmark's Ordinances/processes are complete.

Board Vacancy- John Strohfus was appointed to the Board to fill the vacant Board seat created by Jim Keller's resignation. The seat will be on the November 2016 ballot.

**APPROVAL OF MINUTES-**

**Motion Schneider/2<sup>nd</sup> Grote approval of Minutes 11/16/15 Planning Commission/Hastings Point Preliminary Plat, Planned Unit Development, Second Addition Minor Subdivision.**

**With all present voting yes, Motion Carried 3-0-0.**

**8:53 PM Motion Barr/2<sup>nd</sup> Grote to adjourn. With all present voting yes, Motion Carried 3-0-0.**

Becky Herman  
Denmark Township Clerk/Treasurer