

1
2 **WINONA COUNTY PLANNING COMMISSION MINUTES**
3 **RING CENTRAL VIRTUAL MEETING**
4 **MARCH 18, 2021 at 7:00 PM**
5
6

7 **Members Present:** Commissioners Mark Clark, Steve Jacob, Patrick Byron, Michael Flynn,
8 Lynn Carlson, Kelley Stange, Arlie Herber, Lewis Reiman and Board of
9 Adjustment Liaison Jordan Potter
10

11 **Absent:** None
12

13 **Others present:** Kay Qualley, Planning & Environmental Services Director; Stephanie Nuttall,
14 Assistant County Attorney; Eric Johnson, Zoning Administrator; Lew
15 Overhaug, Planner; Megen Kabele, Planner and Anne Schwertel,
16 Administrative Specialist
17

18 **1. Call to Order:** Chair Mark Clark called the meeting to order at 7:00 p.m.
19

20 **2. Pledge of Allegiance:** The Pledge of Allegiance was recited.
21

22 **3. Approval of Agenda:** On motion by A. Herber and seconded by M. Flynn, the Planning
23 Commission voted to approve the agenda. Vote: Yes – All.
24

25 **4. Approval of Minutes – February 18, 2021:** On motion of L. Reiman and seconded by
26 A. Herber, the Planning Commission voted to approve the minutes.
27 Vote: Yes – All.
28

29 **5. Old Business:**

30 **Docket # PC 02-18-21-01**

31 To consider the petition of George and Kimberly Karr Revocable Trust/SOLAR CLUB 23 in
32 regard to the following Conditional Use Permit request:
33

- 34 • To allow a 1 MW utility scale solar project, pursuant to Chapter 12.3 of the
35 Winona County Zoning Ordinance
36

37 Chair M. Clark introduced the petition.
38

39 L. Overhaug gave a power point presentation that included information that the petition was
40 previously heard in September 2020 but was pulled by the petitioners before it was presented
41 to the County Board. The application was resubmitted for the February 2021 Planning
42 Commission meeting but was requested to be tabled by the petitioner to allow them time to
43 address neighbor concerns. The petition was tabled until the March 2021 Planning

44 Commission meeting. The power point also included overview maps of the parcel and solar
45 panel locations as well as location and type of proposed screening for the project, project
46 overview details, slopes on the proposed parcel and support from the Dresbach Township.
47 Additionally, L. Overhaug went over received comments from neighbors, a solar developer
48 and the Winona County SWCD.

49
50 L. Carlson asked capacity questions for solar arrays in Winona County and what a SWPPP
51 all entailed. L. Overhaug gave background information about approved solar gardens in
52 Winona County and explained what information Planning & Environmental Services has
53 received from developers in regards to reaching capacity on Xcel's lines. Per L. Overhaug,
54 SWPPP's are required by the State for projects over an acre in size and the Planning &
55 Environmental Services ensures the SWPPP's are completed and the practices are in place
56 for the project. He went into further depth about that SWPPP's involve construction practices
57 (grading, excavation) and permit practices, which is how they're going to control erosion in
58 the future. When there is not any perennial vegetation cover, there are some erosion concerns
59 with rainfall. L. Carlson asked if the SWPPP involve concrete. Per L. Overhaug, hardscapes
60 will not be used. It will be vegetative/seeding to control erosion, erosion control mats/logs,
61 berms, or a catch basin to allow the stormwater to infiltrate before it leaves the site.

62
63 K. Stanage asked if the company applying for this solar permit is the same as the other solar
64 projects on the same parcel. Per L. Overhaug, the development company is the same as the
65 other projects but often times the project is sold to another company for management. K.
66 Stanage also asked if there are other 25 acre or 3MW solar systems in Winona County. Per L.
67 Overhaug, there is a 5MW solar system by Rollingstone, which is hard to see from the main
68 highway.

69
70 Chair M. Clark asked questions about handling erosion on hillsides. Per Kay Qualley,
71 SWPPP's are generally prepared by licensed civil engineers to ensure the measures contained
72 in them are adequate and workable for the sites. There are two Planning & Environmental
73 staff members that are certified SWPPP design planners qualified to review. The installation
74 and maintenance of the SWPPP needs to follow the plan's requirements. K. Qualley
75 explained the frequency that solar projects exchange hands can make it difficult to determine
76 who the responsible party is when a site issue is revealed. This is why staff has asked that the
77 project name remain the same throughout the lifetime of the project and that County staff be
78 notified when the project is sold or it moves from development to the maintenance phase
79 with a different company. L. Overhaug added that solar projects on slopes greater than 12%
80 may need extra conditions added, based on staff experience, for consideration from the
81 Planning Commission. With large rain events that can occur during the construction and
82 plant establishment times of a solar project, it's a challenge to minimize runoff in places with
83 steeper slopes.

84
85 L. Reiman asked which generation solar panels will be installed and how frequently they
86 may need to be replaced.

87

88 Planning Commission member J. Potter shared, as a part time solar salesman, normally the
89 panels are warrantied for 25 years. If the panels needed to be replaced within that time, it
90 would fall under warranty.

91
92 S. Jacob commented that it will be a delicate balance when considering solar projects located
93 on soils or slopes that are less useful to farmers (i.e. keep flat areas for crops), yet try to keep
94 the slopes down to a minimum. There was discussion about establishing vegetation prior to
95 installation so as to assist with erosion control.

96
97 L. Carlson asked about the negative effects of strip mining. L. Overhaug didn't believe the
98 project could be characterized as strip mining, therefore not comparable.

99
100 Chair M. Clark asked if the petitioners wished to speak on behalf of the application.

101
102 Petitioner Chuck Beisner, of CB Real Estate Services, started by answering some of the
103 questions from the Commissioners, including capacity, erosion control, the number of poles
104 for the project, and suggested an added condition regarding maintaining groundcover and
105 landscape for the duration of the CUP. Additionally, C. Beisner shared that solar panels are
106 warrantied for 25 years. Lastly, C. Beisner addressed visual concerns by sharing that
107 although they cannot completely shield the view of the panels, they can do their best to try
108 and screen them and dampen the effect. Their proposed landscape plan will include trees 6'-
109 8' feet in height, at the time of planting, which is larger than the standard required in the
110 WCZO.

111
112 L. Carlson asked what would motivate a private landowner to expand their solar energy
113 gardens, if they already have two? She questioned the overall good for the community in this
114 proposal.

115
116 C. Beisner, stated that a private landowner can use their land as they see fit within
117 compliance to the codes of the County. C. Beisner shared that he understands Mr. Karr's
118 motivation to be that he uses over half the income to support the food pantry and the
119 Neighbors in Action in La Crescent, although he cannot verify that.

120
121 On motion of S, Jacob and seconded by L. Carlson, the Planning Commission voted to open
122 the public hearing. Vote: Yes – All.

123
124 Chair M. Clark asked if anyone wished to speak for or against the petition.

125
126 Rebecca Faas, of Winona County, shared that she lives directly across from the current solar
127 panels. She finds the solar panels and the poles associated with them to be awful. She
128 questioned why neighbor comments are not considered when it seemed all the developer
129 needed to do is address erosion concerns. She requested that the wiring be placed
130 underground.

131

132 Chair M. Clark asked if there was anyone else who would like to speak for or against the
133 petition.

134
135 Keli Shapiro, of Winona County, shared that she also lives directly across from the current
136 solar panels. She agreed with Lynn Carlson's comment that the current solar panels are not
137 unsightly. The proposed panels are at a higher elevation and will be quite unsightly. She has
138 concerns with her property value being affected by the many solar panels on the neighboring
139 parcel. She encouraged the Planning Commission members to read her written comments
140 that were a part of the agenda packet. She thanked the Planning Commission for allowing her
141 to speak and express her opposition.

142
143 Chair M. Clark asked two more times if there was anyone else who would like to speak for or
144 against the petition; no response.

145
146 On motion by S. Jacob and seconded by P. Byron, the Planning Commission voted to close
147 the public hearing. Vote: Yes – All.

148
149 Chair M. Clark asked for discussion amongst the Planning Commission.

150
151 A. Herber said he spoke with a couple of realtors on the topic of property value next to solar
152 farms. Both realtors had similar comments, which was that the view of the solar panels is
153 subjective – some buyers may not mind them, some may find them unappealing. He added
154 that he looked into solar panels for his homestead but found out there was not capacity for
155 them in his area. Lastly, he liked the 6'-8' trees proposed for screening.

156
157 J. Potter asked if there's any information on the tax values of the properties adjacent to the
158 already installed solar farms on the Karr property.

159
160 A. Herber commented, per his conversation with the realtors, the property values most likely
161 had not been affected.

162
163 P. Byron commented that the larger solar farms will limit the possibility of other homesteads
164 being able to install smaller solar panels. Also, the road is Apple Blossom Drive, which is a
165 scenic drive and economic engine for LaCrescent and surrounding area. He believed the
166 concerns of the neighbors should also hold weight with their decision. He also pointed out
167 that the project would take viable ag land out of production.

168
169 K. Stange thought it was important to take into consideration how people value where they
170 live and what they see when they look out their window. The only other comparable solar
171 farm is not easily visible to people. It is possible that this solar project is not appropriate for
172 this particular spot.

173

174 On motion by K. Stanage and seconded by L. Carlson, the Planning Commission voted to
175 adopt the Findings of Fact as presented and recommend denial of the CUP to the County
176 Board.

177
178 Chair M. Clark asked if the Findings of Fact need to be modified to support the motion.

179
180 Per K. Stanage, Findings of Fact #1 addressed erosion concerns, Findings of Fact #3
181 addressed the adverse effect upon adjacent residential properties and that this is the third
182 solar project on the same property. Lastly, no screening plan will eliminate the negative
183 visual impact. For all those reasons, K. Stanage believed her motion was supported.

184
185 S. Jacob struggled with the fact that as a landowner they have property rights and if they are
186 willing to comply with all conditions, how can we treat this solar project differently from
187 other approved solar projects. He stated he understood the neighbors' concerns, but if they do
188 not want the land to be in solar, they can vie to buy the land and do with the property as they
189 wish at that time. As a property rights advocate, he does not support neighbors having control
190 over another neighbor's property. Therefore, he cannot support the motion.

191
192 K. Stanage pointed out that the Karr property already had two approved and installed solar
193 gardens, which are not completely impinging on the neighbor's views. The third project will
194 significantly impinge on the neighbor's views and they will not be able to full enjoy their
195 property. She added that the developer admitted that the panels cannot be fully screened.
196 Projects need to have a good fit for the site and this one is not appropriate for this property.

197
198 A. Herber shared that in conversation with a solar developer, he found out that the profit
199 margin for solar projects decreases as they're placed farther from the road. He questioned the
200 placement of solar projects and thought it would be helpful for the solar panels to be placed
201 farther from the road.

202
203 M. Flynn stated the last time this was before the Planning Commission, the two biggest
204 concerns he had were erosion and addressing viewshed concerns from neighbors. The
205 erosion concerns were cleared up per staff and the viewshed concerns were potentially
206 mitigated by the 6'-8' trees in the proposed landscape plan.

207
208 The Planning Commission voted on the motion to adopt the Findings of Fact as presented
209 and recommend denial of the CUP to the County Board.

210 Vote: Yes – 3 (PB, LC, KS)

211 No – 6 (AH, LR, SJ, JP, MF, MC)

212
213 Motion failed.

214
215 M. Flynn wanted to discuss Finding of Fact #3. He asked aloud, "have the petitioners done
216 enough to mitigate the visual impact for the proposed project?" The Planning Commission
217 discussed any possible solution to eliminate the views. K. Stanage pointed out that both staff

218 and developer have both stated that it is not possible to eliminate the views of the panels
219 from all vantage points.

220
221 S. Jacob commented, with previously approved solar gardens in mind, that trees do not make
222 much of a difference for screening. People drive by and eventually accept and don't see the
223 solar garden. The two rows of large, transplanted trees is the best they can do and the best we
224 can ask for. There will still be some visual impact. He advocated for property rights of
225 landowners and pointed out that solar gardens help drive the economy.

226
227 On motion by S. Jacob and seconded by M. Flynn, the Planning Commission voted to adopt
228 the Findings of Fact and recommend approval to the County Board with the conditions as
229 presented.

230
231 M. Flynn asked that a condition, condition #17, be added in regard to the maintenance of
232 landscaping. Assistance with verbiage was given by Assistant County Attorney Nuttall:
233 *"The property owner shall maintain all ground vegetation and landscaping consistent with the*
234 *landscaping plan for the duration of the conditional use permit."*

235
236 On motion by M. Flynn and seconded by J. Potter, the Planning Commission voted to amend
237 the original motion to include condition #17, as stated above. Vote: Yes – All.

238
239
240
241
242 The Planning Commission voted on the motion to adopt the Findings of Fact and recommend
243 approval to the County Board with the amended conditions.

244 Vote: Yes – 6 (AH, SJ, JP, MF, MC, LR)
245 No – 3 (LC, PB, KS)

246
247 Motion carried.

248
249 **Findings of Fact:**

250 1. The use will not create an excessive burden on existing parks, schools, streets/roads and other
251 public facilities and utilities which serve or are proposed to serve the area.

252 *The proposed photovoltaic system would be connected to the Xcel Energy distribution line and*
253 *enhance the capacity of this public utility. The project will create added traffic on County Road 1*
254 *during the construction phase but not what would be considered excessive. No other impacts to*
255 *public facilities or utilities are anticipated so no excessive burden should be experienced if*
256 *erosion control and approved planting measures are properly implemented.*

257 2. The use will be sufficiently compatible or separated by distance or screening from adjacent land
258 so that existing properties will not be depreciated in value and there will be no deterrence to
259 development of vacant land.

260 *The site is located 350 ft. to the west of County Road 1. The nearest neighbor is approximately*
261 *300 ft. away to the north of the proposed SES. There are no studies or other information that*
262 *indicates the value of residential properties adjacent to solar installations will be depreciated.*
263 *The petitioner has proposed vegetative screening around the north, east, and south sides that is*
264 *intended to help screen the project from neighboring dwellings and passersby on Apple Blossom*
265 *Scenic Drive (County Road 1). Any landscaping plans prepared by the applicant will be reviewed*
266 *by the department after submittal and when approved, will provide screening from adjacent*
267 *land. However, no screening plan will completely eliminate views of the array along the Scenic*
268 *By-Way.*

269 3. The structure and site will have an appearance that will have an adverse effect upon adjacent
270 residential properties.

271 *The SES will have an adverse appearance and will be the third project on the property. The 8-*
272 *acre project area combined with the two previous projects on the property will combine to*
273 *create a concentration of at least 24 acres of solar panels. The project will occupy the top of the*
274 *field and may be the most visible and closest to neighboring dwellings and County Road 1. The*
275 *appearance will be mitigated to a certain extent by a landscape screening plan to include*
276 *evergreen trees to be installed around the solar garden and in accordance with the WCZO*
277 *Section 9.1.5 to create a visual buffer between the solar garden and the existing dwellings and*
278 *County Road 1. The proposed screening will eventually help to mitigate the visual impact*
279 *although it will not be eliminated. The amount of contiguous solar panels changes the*
280 *appearance of the area for adjacent property owners and the public.*

281 4. The use is reasonably related to the overall needs of the County and to the existing land use.

282 *The proposed use will be located on land previously in agricultural row crop production. Xcel*
283 *Energy will be purchasing the electricity generated on-site and Xcel customers will be able to*
284 *subscribe to a share of the output providing a clean sustainable source of energy for Winona*
285 *County residents. The County's overall needs include a share of solar energy construction to meet*
286 *State goals.*

287 5. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning
288 district in which the applicant intends to locate the proposed use.

289 *A solar energy farm, as the petitioners have proposed, is a Conditional Use in the*
290 *Agricultural/Resource Conservation District of the WCZO and can be permitted through the CUP*
291 *process. The purpose of the A/RC Zoning District is to protect the working agricultural landscape*
292 *of Winona County and the natural resources and open spaces of the bluff lands. The petitioners'*
293 *intent is to protect the soils and plant perennial pollinators providing soil building action which, if*
294 *properly implemented and maintained free of noxious weeds and invasive species will act to*
295 *improve the organic matter of the soil, enhancing it for future generations. If disruption to soils*
296 *can be minimized and if soil erosion can be controlled and perennial pollinators can be*
297 *established as planned, this use could be considered consistent with the purpose of the Zoning*
298 *Ordinance.*

299 6. The use is in conformance with the Comprehensive Plan of the County.

300 *The Future Land Use Map of the 2014 Comprehensive Plan recommends agricultural/natural*
301 *resource activities for the subject site. The Comprehensive Plan describes Agricultural/ Resource*

302 Conservation areas as lands “established for the purpose of protecting, promoting, maintaining
303 and enhancing the use of land for agricultural and timber harvesting purposes”. The proposed
304 solar installation would be on land that was formerly row crops. At the time the solar project is
305 discontinued and decommissioned, the land could be returned to agricultural / natural resource
306 uses in conformance with the Comprehensive Plan. The plantings required for the project
307 enhance the land for future agricultural use by augmenting the organic matter content, if
308 properly maintained as stated earlier.

309 7. The use will not cause traffic hazard or congestion.

310 The request as presented will not cause traffic hazards or congestion in the immediate area. It is
311 anticipated that during the initial construction and preparation of the solar array, traffic will
312 increase in the vicinity but will be well within the roads design capacity.

313 Winona County Zoning Ordinance 5.5.4.7 requires that the Planning Commission ensure the request
314 fulfills all specific standards of the Ordinance and that adequate evidence for the following findings
315 exists:

316 1. The parcel does demonstrate the capacity to safely accommodate the proposed SES by not
317 posing a risk to adjacent residential uses, public infrastructure and/or thoroughfares.

318 The eight-acre project area is close in size to many other 1 MW projects previously deemed as
319 adequate in capacity able to safely accommodate the proposed SES without risk to adjacent
320 residential uses. However, this project is directly adjacent to two other 1 MW projects on the
321 same property adding to the massing of the solar infrastructure on the property and the
322 potential for erosion and sedimentation issues that can impact adjacent residential uses and
323 public infrastructure such as township roads.

324 Public infrastructure will be able to safely accommodate the arrays because they would not
325 receive an interconnection agreement from Excel otherwise. Thoroughfares will also
326 accommodate the proposed SES, however, the proximity of a close neighbor not associated with
327 the project, will require good communication with the neighbor about planned maintenance and
328 activities which may be disruptive to them.

329 2. The proposed Large-Scale SES will not create adverse effects produced by stray voltage.

330 Stray voltage testing by a qualified electrician with experience in the solar field, is a
331 recommended condition for all SES and is intended to identify and provide a means to mitigate
332 any potential adverse effects relating to stray voltage.

333 3. The proposed Large-Scale SES will not create glare impacting adjacent roads and/or nearby
334 properties.

335 A screening plan including glare analysis prepared by a qualified Landscape Architect reviewed
336 and approved before issuance of a Development Certificate will help mitigate, but not fully
337 eliminate, any glare impact due to the highly visible location.

338 Winona County Zoning Ordinance 5.5 requires that the Planning Commission determine whether
339 the use has an identifiable date or event for termination. Regarding this petition, the proposed use
340 does not have an identifiable date or event for termination.

341 *Although it is anticipated that this project will eventually cease and the land will be returned to*
342 *agricultural production, the lifespan of current solar panels extends well beyond twenty years*
343 *and a termination date for the useful life of the arrays cannot be determined.*

344

345 **With the following conditions:**

346 1. *The owner(s) of the property to which this Conditional Use Permit is issued will abide by all*
347 *representations and commitments made during the permitting process as well as before the*
348 *Planning Commission, in accordance with all conditions to the conditional use permit, taken as a*
349 *whole, as approved by the Planning Commission and the County Board.*

350 2. *The petitioner complies with all applicable federal, state, and local regulations.*

351 3. *Applicants shall submit a landscape plan in accordance with Chapter 9.1.5(c) of the Winona*
352 *County Zoning Ordinance that includes vegetative screening used as a standard for screening*
353 *and landscaping subject to staff review and approval. Approval of any proposed landscape*
354 *plantings is needed prior to issuance of a Development Certificate.*

355 4. *Under the solar panels pollinator-friendly wildflowers as ground cover will be planted and*
356 *subsequently maintained to be free of invasive species. Staff can provide information on species*
357 *and suppliers to streamline this requirement, plan must be approved by staff and the SWCD.*

358 5. *Applicants shall submit an erosion and sediment control plan (SWPPP) in accordance with*
359 *Chapter 9.15 of the WCZO, subject to review by the Winona County SWCD and review and*
360 *approval by the Winona County Planning & Environmental Services Department.*

361 6. *The petitioner complies with Chapter 9.9 (Advertising Devices/Signs) of the Winona County*
362 *Zoning Ordinance.*

363 7. *Applicants shall obtain the required Development Certificate.*

364 8. *Applicants shall contact the area fire department to familiarize the first responders with*
365 *the solar garden facility and operations of the facility.*

366 9. *The applicants shall arrange and test for stray voltage at the solar facility prior to going on-line,*
367 *and to establish a baseline for liability purposes. The applicants shall also arrange for the testing*
368 *of abutting properties for stray voltage levels. If abutting properties show stray voltage emitting*
369 *from a source different than the solar array, the neighboring property owner will be responsible*
370 *for reimbursing the applicant for the cost of the testing and shall be solely liable for the stray*
371 *voltage correction. If stray voltage is caused by the solar array, the solar project applicants shall*
372 *be responsible for the cost of testing and the cost of correcting the stray voltage. This testing*
373 *shall be done prior to construction, at a time of commissioning of the project and periodically as*
374 *part of the Operation and Maintenance of the project.*

375 10. *Decommissioning plan shall be prepared by a qualified engineer and submitted and approved*
376 *by PL & ES staff.*

377 11. *The Applicants shall post and maintain a method of a minimum of \$30,000 in financial surety*
378 *(escrow, letter of credit on a Minnesota bank, bond) commencing at the start of the 1st year*
379 *of operation and continued throughout the life of the project to cover the future*
380 *decommissioning costs of the project. Decommissioning costs would include (but is not limited*
381 *to) removal of all above ground facilities and all underground support structures, and the cost*

382 of returning the land to the agricultural use for which it is currently zoned. If the solar facility is
383 not used to produce electricity for 12 continuous months, the facility shall be decommissioned,
384 and the equipment shall be removed.

385 12. The applicants shall provide proof of the interconnection agreement the project has with Xcel
386 Energy before the permit is issued and construction and operation of the solar array begins.

387 13. The applicant shall apply for a driveway access permit by Winona County Highway
388 Department if necessary.

389 14. The owner(s) of the property shall allow Winona County staff to inspect the property annually
390 or as otherwise necessary to evaluate compliance with the Conditional Use Permit issued and
391 implementation of plans such as the erosion control SWPPP, landscaping plan and
392 maintenance plan.

393 15. The property owner must provide updated project contacts to the Winona County Planning &
394 Environmental Services Department within 30 days of any change in the project developer or
395 project management company.

396 16. All communications with the County, SWCD shall reference the names Karr/SolarClub 23
397 regardless of future ownership as approved.

398 17. The property owner shall maintain all ground vegetation and landscaping consistent with the
399 landscaping plan for the duration of the conditional use permit.

400

401 **6. Updates**

402 • Board of Adjustment – The Board of Adjustment did not have a March 2021 meeting.

403

404 • County Board – Per Steve Jacob, the County Board approved the Nelson and Frickson
405 CUPs. He also requested a background synopsis from Kay Qualley or Stephanie Nuttall
406 on what is transpiring with the Corps of Engineers and their movement of sand from
407 HWY 61. Stephanie Nuttall gave an update as requested.

408

409 **7. Adjourn**

410 On motion by K. Stange and seconded by A. Herber, the Planning Commission adjourned at
411 8:44 p.m.

412

413

414 Respectfully Submitted By,
415 Anne Schwertel
416 Administrative Specialist

417

418

419

420

Signed By: _____



4-15-2021

421

Planning Commission Chair

_____ Date