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**WINONA COUNTY PLANNING COMMISSION MINUTES
FEBRUARY 17, 2022 at 7:00 PM**

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Members Present: Patrick Byron, Michael Flynn, Lynn Carlson, Kelley Stanage, Lewis Reiman, Commissioner Steve Jacob, Board of Adjustment Liaison Jordan Potter

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Absent: Mark Clark and Arlie Herber

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Others present: Kay Qualley, Planning & Environmental Services Director; Stephanie Nuttall, Assistant County Attorney; Eric Johnson, Zoning Administrator and Anne Schwertel, Administrative Specialist

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1. **Call to Order:** Vice Chair Mike Flynn called the meeting to order at 7:01 p.m.

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

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3. **Approval of Agenda:** On motion by Kelley Stanage and seconded by Lewis Reiman, the Planning Commission voted to approve the agenda. Vote: Yes – All.

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4. **Approval of Minutes – January 20, 2022:** On motion of Lewis Reiman and seconded by Jordan Potter, the Planning Commission voted to approve the minutes. Vote: Yes – 6; Abstain – 1 (SJ).

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5. **Docket # PC 02-17-22-01**

To consider the petition of Randy & Valerie Breyer and Novel Energy Solutions LLC in regard to the following Conditional Use/Interim Use Permit request:

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

Vice Chair Mike Flynn introduced the petition.

Planning Director, Kay Qualley, gave a power point presentation that included mapping exhibits of the parcel and showed the proposed location of the solar panels along with a project overview. It was shown that mapped sinkholes exist near the parcel and that the parcel itself has erodible soils. The petitioner/solar company had provided the appropriate submittals (preliminary landscape plan, decommissioning plan and erosion control Stormwater Pollution Prevention Plan (SWPPP)), prime soils and slope information. The Township Acknowledgement form indicated “no comments” from Pleasant Hill Township.

43 The Planning Commission asked questions about the wetland delineation report and the point
44 of interest indicated on the report.

45
46 Vice Chair Mike Flynn asked if the petitioner wished to speak on behalf of the application.

47
48 Petitioner, Randy Breyer of Winona County, introduced himself.

49
50 A representative of the petition, Scott Tempel of Novel Energy Solutions LLC, also spoke
51 and shared that the project size is about 12 acres and explained that solar projects need to be
52 within 1 mile of the substation.

53
54 The Planning Commission asked questions about substation locations and new power lines
55 for the project. The Planning Commission further discussed the proximity of the two solar
56 projects on the Planning Commission agenda.

57
58 On motion of Jordan Potter and seconded by Lewis Reiman, the Planning Commission voted
59 to open the public hearing. Vote: Yes – All.

60
61 Vice Chair Mike Flynn asked if anyone wished to speak for or against the petition.

62
63 Marilyn and Dave Gellerson, of Winona, spoke in opposition to the petition as an adjacent
64 landowner. They handed out their list of questions to the Planning Commission members,
65 staff and petitioners prior to the start of the meeting. They are concerned with screening of
66 the project, close proximity of the project to their homestead, views of the project from their
67 windows, potential negative impacts to their property value, stray voltage, drainage, potential
68 archaeological discoveries on the land, tax rates of the petitioner's parcel, decommissioning
69 plans and escrow accounts for the solar panels, sinkholes and they'd like to see the agreement
70 between Xcel Energy and the Breyer's.

71
72 Vice Chair Mike Flynn asked three more times if anyone wished to speak for or against the
73 petition; no response.

74
75 On motion by Steve Jacob and seconded by Jordan Potter, the Planning Commission voted to
76 close the public hearing. Vote: Yes – All.

77
78 Jordan Potter would like to see both petitions on the agenda to be tabled. He would like more
79 information from Xcel Energy on how much capacity is left for smaller scale neighboring
80 solar projects and if Xcel Energy would be willing to share that information so that small
81 future/upcoming projects in the area would not be prevented from gaining access to the grid.
82 Motion seconded by Lynn Carlson.

83
84 Vice Chair Mike Flynn spoke against the motion as he believed the concerns are addressed in
85 the Findings of Fact and conditions. Steve Jacob spoke against tabling as he did not believe it
86 was fair to change the rules during the game. If the Planning Commission decided to make a

87 procedural change, the solar petitions received after the change would be subject to that
88 change.

89
90 Jordan Potter discussed the importance of allowing many landowners solar opportunities
91 rather than just one or two landowners because of the large solar farms.

92
93 The Planning Commission ensued in a lengthy discussion about the distance between the
94 solar project and the nearest neighbors and whether or not it is appropriate to table the
95 petition for further information about connection capacity.

96
97 Kelley Stange called the question.

98
99 Planning Commission voted on whether to table the petition: Vote: Yes – KS, LC, JP (3); No
100 – PB, MF, LR, SJ (4). Motion failed.

101
102 Lewis Reiman made a motion to adopt the findings of fact, but with the corrected distances
103 and an addition regarding the distance between the solar array and the property line;
104 seconded by Patrick Byron.

105
106 Kelley Stange asked for clarification on the original motion and Lewis Reiman indicated
107 that the motion was to adopt the findings of fact, with corrected distances and recommend
108 approval with the conditions proposed. Kelley Stange made a motion to amend condition #3
109 to add screening. The condition would read:

110 *“Applicants shall submit a landscape plan prepared by a landscape architect, in*
111 *accordance with Chapter 9.1.5(c) of the Winona County Zoning Ordinance that includes*
112 *vegetative screening used as a standard for screening and landscaping subject to staff*
113 *review and approval. The plan shall include screening on the west, north, and east sides of*
114 *the property. Approval of any proposed landscape plantings is needed prior to issuance of a*
115 *Development Certificate. The recommendation is that the maximum size of the Zoning*
116 *Ordinance plants sizes be used as the minimum standard (e.g. for a 4-6’ standard, use 6’*
117 *plants).”*

118 The motion was seconded by Jordan Potter. Vote on the amendment: Yes – KS, LC, JP, SJ
119 (4), No – MF, LR (2); Abstain – PB (1). Motion passed.

120
121 The Planning Commission went back to the original motion by Lewis Reiman and seconded
122 by Patrick Byron to review language indicating the distance between the solar array and the
123 property line. Assistant County Attorney Stephanie Nuttall shared draft Finding of Fact #2
124 language: *“The nearest neighbor residence is approximately 400 ft. away to the west of the*
125 *proposed SES, and the property line is 20 feet from the proposed array.”*

126
127 On motion by Jordan Potter made a to add a condition: *If a neighboring property owner*
128 *within Xcel’s portion of the grid is denied due to grid capacity, Novel Energy will curtail*
129 *their production until the grid capacity is available.* The motion failed due to lack of a
130 second.

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Kelley Stange made a motion to make an amendment to Finding of Fact #1 to read:

1. The use may create an excessive burden on existing parks, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.

It is unclear whether the addition of this project will create an excessive burden and preclude other landowners from installing their own solar arrays. The project will create added traffic on County Road 104 during the construction phase but not what would be considered excessive.

The motion was seconded by Lynn Carlson.

Vice Chair Mike Flynn did not believe it would create an excessive burden as he believed Xcel Energy has researched this. At some point as more solar arrays are added, it may reach a saturation point but at this point in time, he did not believe it would create an excessive burden.

Scott Tempel, of Novel Energy, did not know the numerical amount of capacity left on the system. Xcel Energy has to pay for those reports and he will find out if he can share that information. He will have the answer at next month's meeting for the Planning Commission as Novel Energy has a CUP for next month. He explained the difference between retail markets and solar gardens. For approved projects, they would not want to curtail or change their capacity due other landowner solar requests. It is possible Xcel Energy to curtail them, however, and it has happened. He has heard the concerns with the proximity of the solar array to the neighbors and would be willing to shift the array and add the necessary screening.

Vote on the amendment to Finding of Fact #1: Yes – MF, LC, KS, JP, PB, SJ (6); No – 1 (LR). Motion passed.

The Planning Commission voted on the original motion by Lewis Reiman and seconded by Patrick Byron to approve the amended Findings of Fact and conditions and recommend approval of the Conditional Use Permit to the County Board. Vote: Yes – All.

Findings of Fact:

1. The use may create an excessive burden on existing parks, schools, streets/roads and other public facilities and utilities which serve or are proposed to serve the area.

It is unclear whether the addition of this project will create an excessive burden and preclude other landowners from installing their own solar arrays.. The project will create added traffic on County Road 104 during the construction phase but not what would be considered excessive.

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

175 *The nearest neighbor residence is approximately 400 ft. away to the west of the proposed SES,*
176 *and the property line is 20 feet from the proposed array. The petitioner has indicated that*
177 *vegetative screening (trees) can be provided on the west side of the site, and along the adjacent*
178 *ROW of Co. Rd. 104 (north side of project area. Prior to issuance of the Development*
179 *Certificate, the applicant will have submitted and subsequently had an approved landscaping*
180 *and screening plan through the Planning & Environmental Services Dept. and the SWCD.*
181 *However, no screening plan will completely eliminate views of the array.*

- 182 3. The structure and site will have an appearance that will have an adverse effect upon adjacent
183 residential properties.

184 *The SES is proposed directly south of County Road 104 on a gentle slope that is visible and will*
185 *have an adverse appearance from the public right of way. The inclusion of additional evergreen*
186 *trees to be installed around the solar garden beyond screening from the immediate public view*
187 *and in accordance with the WCZO Chapter 9.1.5, will help create a visual buffer between the*
188 *solar garden and the existing dwellings, as well as County Road 104. The requirement of*
189 *additional screening would eventually help to mitigate the visual impact, although it will not be*
190 *eliminated.*

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

192 *The proposed use will be located on land previously used for agricultural purposes. Large Solar*
193 *Energy Systems are common in agricultural areas because of the space required and access to the*
194 *power grid. Xcel Energy will be purchasing the electricity generated on-site and Xcel customers*
195 *will be able to subscribe to a share of the output providing a clean sustainable source of energy*
196 *for Winona County residents which is reasonably related to the overall needs of the County.*

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

199 *The purpose of the A/RC Zoning District is to protect the working agricultural landscape of*
200 *Winona County and the natural resources and open spaces of the bluff lands. A solar energy*
201 *farm can be an important revenue source for farmers looking to diversify the income generated*
202 *on their farms enhancing their agricultural operations. The petitioners intend to protect the soils*
203 *and plant perennial pollinators providing soil building action which, if properly implemented and*
204 *maintained free of noxious weeds and invasive species, will act to improve the organic matter of*
205 *the soil, enhancing it for agricultural use by future generations.*

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

207 *The Future Land Use Map of the 2014 Comprehensive Plan recommends agricultural/natural*
208 *resource activities for the subject site. The Comprehensive Plan describes Agricultural/ Resource*
209 *Conservation areas as lands "established for the purpose of protecting, promoting, maintaining*
210 *and enhancing the use of land for agricultural and timber harvesting purposes". The proposed*
211 *solar installation would be on land that is currently pasture. At the time the solar project is*
212 *discontinued and decommissioned, the land could be returned to agricultural / natural resource*
213 *uses in conformance with the Comprehensive Plan. The plantings required for the project*

214 *enhance the land for future agricultural use by augmenting the organic matter content, if*
215 *properly maintained as stated earlier.*

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

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

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

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

225 *Public infrastructure will be able to safely accommodate the arrays. The power grid connection*
226 *is approved by Excel through their interconnection agreement and County Road 104 will provide*
227 *adequate access. The site will be fenced and screened limiting access to the solar energy system.*

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

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

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

234 *This solar energy system uses photovoltaic modules to generate electricity. PV modules use non-*
235 *reflective glass and are designed to absorb rather than reflect the light that hits the panels in*
236 *order to convert solar energy into electricity. In addition, this project utilizes silicon based solar*
237 *panels that have an anti-glare coating. The potential for glare is low but screening along*
238 *County Road 104 will help further mitigate adverse effects due to glare.*

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

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

245

246 **With the following conditions:**

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

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

- 252 3. Applicants shall submit a landscape plan prepared by a landscape architect, in accordance with
253 Chapter 9.1.5(c) of the Winona County Zoning Ordinance that includes vegetative screening
254 used as a standard for screening and landscaping subject to staff review and approval. The plan
255 shall include screening on the west, north, and east sides of the property. Approval of any
256 proposed landscape plantings is needed prior to issuance of a Development Certificate. The
257 recommendation is that the maximum size of the Zoning Ordinance plants sizes be used as the
258 minimum standard (e.g. for a 4-6' standard, use 6' plants).
- 259 4. Under the solar panels, in the inter panel areas, perimeters and other areas of the project
260 pollinator-friendly wildflowers as ground cover will be planted and subsequently maintained to
261 be free of noxious weeds and invasive species. A maintenance plan prepared by subject matter
262 experts in prairie planting maintenance must be provided. Staff can provide information on
263 species and suppliers to streamline this requirement, plan must be approved by staff and the
264 SWCD. BWSR pollinator guidelines will be used by all staff.
- 265 5. Applicants shall submit an erosion and sediment control plan (SWPPP) prepared by a licensed
266 engineer, in accordance with Chapter 9.15 of the WCZO, subject to review by the Winona
267 County SWCD and review and approval by the Winona County Planning & Environmental Services
268 Department.
- 269 6. The petitioner complies with Chapter 9.9 (Advertising Devices/Signs) of the Winona County
270 Zoning Ordinance.
- 271 7. Applicants shall obtain the required Development Certificate.
- 272 8. Applicants shall contact the area fire department to familiarize the first responders with
273 the solar garden facility and operations of the facility.
- 274 9. The applicants shall arrange and test for stray voltage at the solar facility prior to going on-line,
275 and to establish a baseline for liability purposes. This testing shall be done by a licensed
276 electrician trained in evaluation of stray voltage relating to solar projects. The applicants shall
277 also arrange for the testing of abutting properties for stray voltage levels. If abutting properties
278 show stray voltage emitting from a source different than the solar array, the neighboring
279 property owner will be responsible for reimbursing the applicant for the cost of the testing and
280 shall be solely liable for the stray voltage correction. If stray voltage is caused by the solar array,
281 the solar project applicants shall be responsible for the cost of testing and the cost of correcting
282 the stray voltage. This testing shall be done prior to construction, at a time of commissioning of
283 the project and periodically as part of the operation and maintenance of the project.
- 284 10. Decommissioning plan shall be prepared by a qualified engineer and submitted and approved
285 by staff Planning and Environmental Services staff.
- 286 11. The Applicants shall post and maintain a minimum of \$50,000 in financial surety (cash escrow
287 preferred) commencing at the start of the 1st year of operation and continued throughout the
288 life of the project to cover the future decommissioning costs of the project. Decommissioning
289 costs would include (but is not limited to) removal of all above ground facilities and all
290 underground support structures, and the cost of returning the land to the agricultural use for
291 which it is currently zoned. If the solar facility is not used to produce electricity for 12
292 continuous months, the facility shall be decommissioned, and the equipment shall be
293 removed. In addition, a \$5,000 cash surety be posted with the County for three years starting

294 *when the pollinator plantings and landscaping is intalled, to be released upon joint inspection*
295 *by the SWCD and County staff for adequate growth and adherence to the approved plans.*

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

298 13. *The applicant shall apply for a driveway access permit by Winona County Highway*
299 *Department if necessary.*

300 14. *The owner(s) of the property shall allow Winona County staff to inspect the property annually*
301 *or as otherwise necessary to evaluate compliance with the Conditional Use Permit issued and*
302 *implementation of plans such as the erosion control SWPPP, landscaping plan, pollinator*
303 *planting health and execution of the maintenance plan.*

304 15. *The property owner must provide updated project contacts to the Winona County Planning*
305 *and Environmental Services Department within 30 days of any change in the project developer*
306 *or project management company.*

307 16. *All communications with the County, SWCD shall reference the names Breyer/Novel Energy*
308 *Solutions LLC regardless of future ownership as approved.*

309

310 **Docket # PC 02-17-22-02**

311 To consider the petition of Michael & Nicole Makes and Novel Energy Solutions LLC in
312 regard to the following Conditional Use/Interim Use Permit request:

- 313
 - To allow a 1 MW utility scale solar project, pursuant to Chapter 12.3 of the Winona
- 314
 - County Zoning Ordinance
- 315

315

316 Vice Chair Mike Flynn introduced the petition.

317

318 Zoning Administrator, Eric Johnson, gave a power point presentation that included overview
319 mapping exhibits of the parcel and solar panel location, project overview, mapped sinkholes,
320 petitioner's submittals (preliminary landscape plan, decommissioning plan and erosion
321 control), prime soils and slope information and a Township Acknowledgement form
322 indicating "no comments" from Pleasant Hill Township.

323

324 The Planning Commission asked questions about the wetland delineation report.

325

326 Vice Chair Mike Flynn asked if the petitioners wished to speak on behalf of the application.

327

328 A representative of the petitioner, Scott Tempel of Novel Energy Solutions LLC, explained
329 the different type of solar arrays proposed for this solar garden—dual-sided trackers. He gave
330 a brief overview of the technology and how it worked.

331

332 The Planning Commission asked questions about the spacing and size of the panels and the
333 size of the concrete pad needed to accommodate the panels. The Planning Commission had
334 concerns with the disturbance of the topsoil and decommissioning of the panels.

335

336 On motion of Kelley Stange and seconded by Lewis Reiman, the Planning Commission
337 voted to open the public hearing. Vote: Yes – All.

338
339 Vice Chair Mike Flynn asked three times if anyone wished to speak for or against the
340 petition; no response.

341
342 On motion by Steve Jacob and seconded by Jordan Potter, the Planning Commission voted to
343 close the public hearing. Vote: Yes – All.

344
345 The Planning Commission discussed concerns with the size of the concrete pads and bases
346 associated with this type of solar panel, the feasibility of the land being able to go back to
347 cropland after decommissioning of the solar panels because of the numerous concrete
348 footings and therefore, whether recently used dollar amounts for financial surety are
349 adequate.

350
351 On motion by Kelley Stange and seconded by Steve Jacob, the Planning Commission voted
352 to table this petition until the March 17th Planning Commission meeting to allow the
353 petitioner to resubmit supplemental materials.

354
355 The Planning Commission and petitioner discussed tabling the petition to allow Novel
356 Energy to alter their petition and application materials, also in the event that more standard
357 solar arrays might be proposed instead of the taller dual-sided technology. Scott Tempel
358 agreed that was the best option for Novel Energy.

359
360 The Planning Commission voted to table the petition. Vote: Yes – All.

361
362 **6. Updates**

- 363 • **Board of Adjustment** – The Board of Adjustment approved a subsurface sewage
364 treatment system variance for Robert and Marilyn Hurt.
365
366 • **County Board** – The Winona County Board approved the IUP for Watkowski and the
367 CUPs for Medgaarden, Shetler, Greden, Bronk and Adams-Barrett.

368
369 **7. Adjourn**

370 On motion by Lewis Reiman and seconded by Lynn Carlson, the Planning Commission
371 adjourned at 9:27 p.m.

372
373 Respectfully Submitted By,
374 Anne Schwertel, Administrative Specialist

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376
377
378 Signed By: 
379 Planning Commission Chair/Vice Chair

3-15-22
Date