

May 7, 2019

The Scandia Planning Commission held their regular monthly meeting on the above date. The following were in attendance: Commissioners Jan Hogle, Perry Rynders and Chair Dan Squyres. Absent: Commissioners Greg Amundson and Travis Loeffler. Staff present: City Planner Merritt Clapp-Smith and Deputy Clerk Brenda Eklund. City Council liaison Jerry Cusick was also present.

Chair Squyres called the meeting to order at 7:08 p.m.

### **APPROVAL OF AGENDA, MINUTES**

Chair Squyres announced a reorder of the agenda:

Agenda Item 4) Tii Gavo CUP

Agenda Item 5) US Solar CUP

Agenda Item 6) Stroemer IUP

**Hogle, seconded by Rynders, moved to approve the agenda as amended. The motion carried 3-0.**

**Hogle, seconded by Rynders, moved to approve the April 2, 2019 meeting minutes as presented. The motion carried 3-0.**

### **PUBLIC HEARING: AMENDMENT TO CONDITIONAL USE PERMIT FOR TII GAVO DEVELOPMENT TO EXPAND MARINA AT OUTLOT D (PC RESOLUTION NO. 05-07-19-01)**

Peter Stalland, on behalf of the Tii Gavo Community Association, has applied for an amendment to the Tii Gavo development's Conditional Use Permit and Development Agreement to increase the number of dock slips from 19 to 29 (10 additional slips). This would provide a boat slip for each lot in Phase 1 of the development. The centralized marina is located within Painted Turtle Bay and accesses Big Marine Lake through a 900' long channel.

Planner Clapp-Smith presented the staff report with details of the request. Tii Gavo was approved as a Planned Unit Development and Open Space Conservation Development in 2007. The Development Agreement with the City limited the number of dock slips to 19 based on the shoreland regulations and DNR permit requirements limiting slips to the number of riparian lots in Phase 1. The Carnelian-Marine Watershed recommended a limit to boat slips based on the number of lakeshore owner lots (19) and no boat ramp. All agencies approved of 19 slips at the time. Clapp-Smith explained that based on the city's current shoreland ordinance of standards which govern PUDs, only 17 lots qualify as first tier. Clapp-Smith noted the comments from the DNR and Watershed to recommend denial of any additional slips for protection of water quality.

Planner Clapp-Smith recommended denial of the request by summarizing that the original development goals for the conservation purposes of the subdivision had limited the boat slips to 19 to preserve the shoreline and protect existing vegetation near the marina. The expansion is not consistent with the goals of the Comprehensive Plan to protect natural resources. Clapp-Smith said that based on the shoreland ordinance, a launching ramp may be provided for use by

occupants located in other tiers. A resolution with findings and conditions of denial was prepared.

Chair Squyres opened the public hearing at 7:30 p.m.

*Peter Stalland, applicant, 19256 Meadowridge Trail* said the 19 boat slips in the original development agreement was an arbitrary decision at the time. Subsequent ordinance changes offer no evidence to support 19 slips and explained three different instances from the ordinance that would allow an increase in number of slips. They are asking for one boat slip per lot as it would enhance the cohesiveness of Tii Gavo residents, it would add value to the lots and subsequently the city's tax base, and there are no indications that it would be detrimental to water quality. Stalland noted that the Big Marine Lake Association agreed to the addition of 10 boat slips as it would reduce the number of boat trips through the channel made by the residents and lessen the potential of aquatic invasive species introduced to the lake.

*Jason Pass, Big Marine Lake Development*, said protecting the environment is key to the developers and the water quality of the bay has improved over the last 10 years. He said a boat launch would be most detrimental to the bay. Nineteen slips and 29 lots don't mesh – Tii Gavo means gathering place and this would finish it off.

*Wayne Jacobson, certified environmental specialist, Jacobson Environmental*, said he has been doing weed control in the bay for 10 years and explained the high-quality vegetation habitat now existing here. Increased boat docks would require no change to aquatic plant management and would not affect nesting waterfowl on the western edge of the bay. Boat traffic at low speeds would not stir the shoal water soils, and he sees no issues with adding 10 boat slips.

*Patrick Hofkes, 19225 Meadowridge Lane*, explained how he launches at the public access on the other side of the lake, and then takes a number of boat trips through the channel to pick up riders at the Tii Gavo marina for time on the lake. The alternative to start from the marina where he could dock his boat for the season is less impactful to the lake and lessens the chance of introducing invasive species to the bay. Homes were developed away from the lake and all have raingardens to ensure no contamination is coming off the development. This marina is conservation minded, and the floating docks do not disturb the bottom.

*Jim Shaver, Carnelian-Marine-St. Croix Watershed*, noted the memo from the agency's engineers which agreed with the DNR that the proposed increase in number of slips may incur negative impacts to the bay's vegetation and increased boat traffic through the channel may increase sediment disturbance potentially increasing resuspension of phosphorous and hence algae blooms.

*Mr. Jacobson* replied that the bay has no population of nuisance algae which indicates good water quality similar to the lake at large. He understands the Watershed's concern but is impressed with the algae population that is not detrimental.

*John Salitros, 19237 Meadowridge Lane*, explained that the dock extension would be built into the deepest part of the bay. The worst alternative would be a launching ramp which could introduce invasive species. This dock extension would preserve what is already there – a high quality bay. He asked the Commissioners to look at why this proposal should be allowed, for the harmonization of the neighborhood.

There were no other comments and Chair Squyres closed the hearing at 8:17 p.m.

Chair Squyres said there are differences in thoughts about potential environmental impacts versus what is actually happening. He said the spirit of the shoreland ordinance should be considered. This proposal appears to be an improvement to the existing situation as it limits the number of trips through the channel. Commissioner Rynders agreed. Commissioner Hogle said there is no evidence that increased boat docks will impact water quality and is inclined to be in favor.

Commissioner Rynders questioned if there would be a future request for 8 more docks once Phase 2 of the development is completed, and asked if a condition could state no more increase to the number of docks. Planner Clapp-Smith said this could not be a condition and would need to be analyzed in the future.

Chair Squyres said conservation developments should be encouraged and this gives extra incentive to develop this type of housing that functions to preserve shoreline.

Commissioner Hogle said she understands the concerns of the DNR and Watershed but the practical answer is to limit the number of boat trips by allowing more docks in the marina for the home owners.

Planner Clapp-Smith explained findings of approval based on the environmental impacts being improved with the addition of boat docks, with conditions that the applicant comply with the configuration of the marina as proposed.

**Squyres, seconded by Rynders, moved to approve PC Resolution No. 05-07-19-01, approving an amendment to the CUP and Development Agreement of Tii Gavo to expand the marina with findings that environmental impacts are lessened with this plan and conditioned on the configuration of the marina as presented or smaller. The motion carried 3-0.**

The recommendation to approve the marina expansion will be presented to the Council at their May 21, 2019 meeting.

**PUBLIC HEARING: CONDITIONAL USE PERMIT FOR A DISTRIBUTION SCALE SOLAR ENERGY SYSTEM AT PID 30.032.20.23.0001. APPLICANT, US SOLAR (PC RESOLUTION NO. 05-07-19-02)**

US Solar is requesting a Conditional Use Permit to construct and operate a one-megawatt distribution scale solar energy system that would occupy 10 acres on an 88-acre parcel east of Keystone Avenue and north of 192<sup>nd</sup> Street owned by Ronald and Janet Taylor.

Planner Clapp-Smith presented a review of the application and its conformance to the requirements to the recently adopted solar ordinance. The site plan was viewed to show setbacks, landscape screening and the point of interconnection to Xcel's utility line near Manning Avenue. The maximum height of the panels measures 10 feet. Clapp-Smith noted the decommissioning plan proposes posting a financial surety of \$2,000 per year between years 16 and 25 of operation, totaling \$20,000.

Planner Clapp-Smith concluded with a recommendation of approval with findings and 20 conditions as written in a resolution. Screening is to be added along the southern edge of the installation if glare is a nuisance to travelers on 192<sup>nd</sup> Street. All required permits must be obtained, including Watershed, grading and building, and financial security for the landscaping.

Chair Squyres opened the public hearing at 8:47 p.m.

*Charles Nordin, 19977 Keystone Avenue*, said he is against the proposal. He owns property to the north which will decrease in value. His property is surrounded by a cell tower, utility lines, and now solar panels to the south. He doesn't think that it is right to concentrate utilities all around here.

*Reed Richerson, US Solar*, said he agrees with the findings and conditions of approval and noted how the installation is exceeding setback requirements. The main concern to limit poles is accommodated with one pole outside of the right-of-way. A wooden agricultural fence will be installed and the solar panels are below the maximum height allowed of 12'. Richerson said landscape modifications could be made to screen the adjacent property if requested.

*Joslyn, 19790 Manning Trail* said trees have been removed within the site line from her house and the rolling hills of the property may make the project viewable from the white house on Manning.

*Rich Kleinstick, 19910 Manning Trail* said that he can see vehicles on Keystone Avenue from his house. Solar installations are an eyesore especially to adjacent properties and should be put in places where they cannot be seen at all. He is concerned that the trees will take 15 years to grow and provide screening. He wants the panels out of his site line as much as possible and said he is concerned about potential glare in the morning when the panels which follow the sun face his property. Chair Squyres explained that screening must be established by vegetation within four growing seasons.

*Nordin* said that screening on the north side will not pacify him.

*Andy Rice, 19400 Keystone Avenue* asked if the rest of the 88 acres will become a solar field in the future. Chair Squyres answered not possible under the current ordinance because systems larger than one megawatt would require more interconnection poles and the ordinance limits poles to one per installation.

*Ann, 19256 Keystone Avenue* said she is across the street and wants mature trees installed to fully screen the panels that are ugly and will depreciate their home values.

There were no further comments and Chair Squyres closed the hearing at 9:18 p.m.

Commissioner Rynders stated that the developers should fund the decommissioning surety initially instead of by their plan to fund \$2,000 per year between years 16 and 25 of the operation. As well, the landscaping financial surety proposal to provide 3 years of care, maintenance and warranty on the landscaping vegetation did not appear adequate, but rather should be held for the life of the project. Planner Clapp-Smith said this is an area where the City can have its own terms.

The Commissioners discussed the views from adjacent properties and recommended that the homes to the east and south have complete screening, especially as there are high points within the project site. It was agreed to schedule a site visit to determine which viewpoints need additional vegetative screening. A special Planning Commission meeting was scheduled for Monday, May 13<sup>th</sup> at 5:00 p.m. to visit the site with the developers for the purpose of determining the additional screening for the landscape plan.

Mr. Richerson explained that the 3-year landscape escrow covers the transplant shock period and questioned having the escrow held for the duration of the project. He noted that the CUP requires that screening be maintained. Commissioner Hogle said that if the screening fails, the project is in violation of the permit. Planner Clapp-Smith will consult with the City Attorney on the landscaping escrow to ensure that the City is covered.

The Commissioners reviewed staff's recommended conditions and noted two amendments:

- #16. The applicant shall post a decommissioning financial surety up front based on the estimated cost of decommissioning.
- #17. Landscaping be maintained until the project is decommissioned or through duration.

Commissioner Hogle stated that the application meets the ordinance requirements, and this is a balancing act for the developer, land owner and adjacent residents.

**Rynders, seconded by Squyres, moved to approve PC Resolution No. 05-07-19-02, Recommending Approval of a CUP for a Distribution Scale Solar Energy System on PID 30.032.20.23.0001 on Keystone Avenue with amendments to Conditions #16 and #17. The motion carried 3-0.**

The recommendation to approve the distribution scale solar energy system will be presented to the Council at their May 21, 2019 meeting.

**PUBLIC HEARING: INTERIM USE PERMIT AT 13350 SCANDIA TRAIL NORTH.**  
**APPLICANT, JOHN STROEMER (PC RESOLUTION NO. 05-07-19-03)**

Planner Clapp-Smith provided the staff report on an application for an Interim Use Permit to keep more animals units than allowed on property owned by John Stroemer at 13350 Scandia Trail North, while he works to find new homes for some of the animals. Currently 23 horses and 12 cows, totaling 40 animal units, were observed on the two combined properties totaling 43.3 acres. Allowed animal density (1 animal unit per 2 acres) is 21 animal units. At this time, the animals are being kept within a 9-acre fenced area on the northern property. A wetland delineation report was submitted and determined that no wetlands exist in the area where the animals are kept and collection of manure is outside of the setbacks.

Planner Clapp-Smith noted the concerns regarding potential animal neglect that have been registered against Mr. Stroemer. To date, the investigations have not resulted in criminal fines. The provision to allow an interim time to reduce the number of animals by a definitive date is allowed under the development code as an option to come into compliance with the livestock ordinance. Clapp-Smith recommended approval of the IUP with six conditions, including that the fences be maintained in good repair, the areas for animal moving and grazing meet the definition of pasture, and the permit terminates within 6 months of date of issuance (at which time the applicant must be in compliance with animal units).

Chair Squyres opened the public hearing at 9:53 p.m.

*Dennis Seefeldt, 13809 Scandia Trail* explained the water runoff coming from this property, across Novak Avenue and into the pond across from his property, and said it is worse in the spring over frozen ground by carrying the manure pollutants which impairs the ponds. He asked that the request be denied.

*John Olson, 13760 Scandia Trail* said he lives next door and that the animals frequently get out, noted the high number of sheriff calls, the neglected disposal of dead animals, and asked that the permit expire before the ground freezes. Mr. Olson asked if vet care can be required. Planner Clapp-Smith said that animal welfare calls are made to the County Sheriff's Department and the state's animal welfare units to investigate animal neglect. Council member Cusick explained that state statute governs disposal of animal remains and calls should be made to the Sheriff's office to investigate. Mr. Olson said the limit should be 10 horses and 10 cows; there is not enough pasture for the allowed number, and the animals frequently get out causing traffic hazards.

*Dan McGrath, legal counsel representing Stroemer* said the ordinance is clear that an IUP can be pursued for noncompliance. The property is considered as pasture, not feedlot. Mr. Stroemer had intended to enter the show horse business which did not work out and is transitioning the animals to Missouri. Time is needed to allow the foals to grow old enough through this summer and advised against shortening the term of the IUP. He said trespassers are luring the animals to

the fence which knocks it down and allows them to get out. McGrath noted that the cows are beef cattle, and should be considered as 1.0 animal unit, not the 1.4 animal units used in the staff report for dairy cattle. McGrath said that the number of calls to report neglect are persistently coming from the same phone number. He concluded that Mr. Stroemer is here to bring his property into compliance and is following the process in good faith.

*Carol Olson, 13760 Scandia Trail* said the person claimed to be a trespasser is not feeding the horses and luring them out. It's the bulls that get out and have damaged their property. She said she likes to see animals next door, but not when they are getting loose – the problem is keeping them in the pens.

*Becky Sandstead, Forest Lake* said she makes daily visits to the property to observe conditions and is making sure the animals are fed, and has been doing so for the past 1-1/2 years. She said she has documented atrocious conditions such as the lack of shelter, poor health, and improper breeding. She asked that time be allowed to get the horses to safety and asked that Stroemer work with her to do this. Staff explained that how the animals are reduced cannot be a condition of the permit; rather she would need to work with the applicant directly.

*John Stroemer, applicant* said the wetland on the northern property only holds water in the spring and is a low spot for acres around and runoff could not cross Novak Avenue due to topography. He said the runoff described by Seefeldt comes from south of the highway.

There were no further comments and Chair Squyres closed the hearing at 10:21 p.m.

Commissioners discussed the wetland and water flow and determined that excess runoff could only occur in extremely wet years because the elevations rise to the east of the Stroemer wetland.

Commissioner Rynders said that the wetland issue doesn't appear relevant. Getting the property into compliance is, and this IUP is the right step. Chair Squyres agreed, and said the alternative, to not approve would have him reduce the number of livestock immediately and that would not be fair. Commissioner Hogle agreed that an interim period is better for the animals. Commissioners agreed the deadline should be before the ground freezes and recommended October 31, 2019.

In regards to the fence conditions, Commissioner Rynders said they should be repaired as soon as possible. Commissioner Hogle said a practical time should be designated that can realistically be met and weather conditions taken into account. It was decided to leave condition #2, facilities and fencing be maintained in good repair, as written in the resolution.

**Rynders, seconded by Hogle, moved to approve PC Resolution No. 05-07-19-03, Recommending Approval of an Interim Use Permit for the Keeping of Livestock in Excess of Animal Units Allowed at 13550 Scandia Trail with an amendment to Condition #5 that the permit terminate on October 31, 2019. The motion carried 3-0.**

The recommendation to approve the IUP will be presented to the Council at their May 21 2019 meeting.

**DISCUSSIONS ON USES IN THE AGRICULTURAL PRESERVE ZONING DISTRICT  
AND DEFINITION AND REGULATION OF ACCESSORY STRUCTURES**

Chair Squyres recommended tabling the discussions on agricultural preserve zoning districts and definitions of accessory structures to a future meeting.

**Hogle, seconded by Rynders, moved to table Agenda Items #7 and #8 to a future meeting.  
The motion carried 3-0.**

**ADJOURNMENT**

**Rynders, seconded by Hogle, moved to adjourn the meeting. The motion carried 3-0.**

The meeting adjourned at 10:35 p.m.

Respectfully submitted,

Brenda Eklund  
Deputy Clerk