

# PLANNING COMMISSION MEETING MINUTES

## CITY OF GRANT

March 20, 2018

**Present:** Matt Fritze, James Drost, Jerry Helander, Jeff Schafer, Jeff Giefer and Robert Tufty

**Absent:** John Rog

**Staff Present:** City Planner, Jennifer Swanson; City Clerk, Kim Points

### 1. CALL TO ORDER

The meeting was called to order at 6:34 p.m.

### 2. PLEDGE OF ALLEGIANCE

### 3. APPROVAL OF AGENDA

MOTION by Commissioner Schafer to approve the agenda, as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

### 4. APPROVAL OF MINUTES, February 20, 2018

MOTION by Commissioner Tufty to approve the February 20, 2018 Minutes, as presented. Commissioner Helander seconded the motion. MOTION carried unanimously.

### 5. NEW BUSINESS

**PUBLIC HEARING, Consideration of Minor Subdivision Application, 11425 & 11335 Grenelefe Avenue North** – City Planner Swanson advised the Applicant Matt Owen on behalf of the Owners, Steve and Barb Cossack, is requesting a lot line rearrangement of the properties located at 11425 and 11335 Grenelefe Avenue North. The requested arrangement will transfer approximately 14.28 acres of land from 11425 to 11335 Grenelefe Avenue and will not create any additional lots.

A duly noticed public hearing was noticed for March 20, 2018 at 6:30 PM, and notices were sent to individual property owners located within ¼-mile (1,320 feet) of the proposed subdivision.

#### **Project Summary:**

Applicant & Owner:	Matt Owen (Applicant on behalf of Owners)
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	Steve & Barb Cossack (Owners)
PID:	0603021410001, 0603021420005
Address:	11425 & 11335 Grenelefe Avenue North
Zoning & Land Use:	A-1 & A-2
Request:	Lot Line Rearrangement (Minor Subdivision) to transfer approximately 14.28 acres from Parcel B creating a larger Parcel A. (see survey)

City Planner Swanson advised the Applicant is proposing a lot line rearrangement that will transfer approximately 14.28 acres of land from Parcel B (11425 Grenelefe) to Parcel A (11335 Grenelefe) result in two lots each in excess of 20-acres (See attached survey). No description was provided with respect to the intent or reason for the lot line rearrangement, and no details were provided within respect to any proposed improvements to either lot. There are no new structures included or proposed as part of this application; however, based on previous discussions with the Applicant the intent is to eventually build a principal residential structure on Parcel B which is currently vacant. There is an existing home located on Parcel A that at this time is proposed to remain in its current configuration but may be subject to redevelopment in the future.

The City's subdivision ordinance allows for minor subdivisions and lot line adjustments as defined in Section 30-9 and 30-10. The sections of the code that relate to dimensional standards and other zoning considerations are provided for your reference:

Secs. 32-246

Section 30-10 specifically regulates resubdivision and rearrangement applications, particularly as they relate to land which has already been platted. The proposed lot line rearrangement is of land contained within the Northridge Acres plat, and therefore staff would recommend review of this section prior to the meeting.

Parcel A is described as Lot 7, Block 3 of Northridge Acres and is located on the south curve of Grenelefe Avenue North before the roadway transitions to Granada Avenue. The existing parcel A is bordered by Grenelefe Avenue North on the west and contains approximately 390-feet of frontage. There is an existing home on Parcel A setback approximately 210-feet from the road (westerly property line), 166-feet from the northeasterly property line (side), 415-feet from the southeasterly property line (rear) and 200-feet from the southwesterly property line. The existing lot configuration is irregular in shape, and primary access is from the southerly curve in Grenelefe Avenue N. There is one accessory building, which is noted as a garage, on Parcel A with a total square footage of approximately 1,320 square feet. The existing home and detached garage are accessed by a single driveway that is approximately 225-feet from the roadway. The topography of the site generally slopes from north to south through Parcel A. A freshwater pond

classified in the National Wetland Inventory is located approximately 115-feet south of the existing principal structure. Trees line both the northern property line, partially southern property line, and many are dispersed around the existing home.

Parcel B is described as Lot 4, Block 3, Northridge Acres, is irregular in shape and is in a configuration often referred to as a “flag” lot. The Parcel extends to Grenelefe Avenue North with approximately 355-feet of frontage, with the majority of the parcel’s acreage located to the east of 11335 and 11365 Grenelefe Avenue N. The majority of Parcel B is vacant, with only a primary access and associated landscaping present. There are no existing structures on Parcel B, but there is a path/road improvement that appears to be gravel which loops through the property. The land is relatively flat with a general slope of north to south and the site is sparsely vegetated and appears to have some agricultural use based on aerials obtained on Washington County GIS (see attached). There appears to be a wetland present in the north eastern corner of the Parcel B per the National Wetland Inventory.

The proposed minor subdivision/lot line rearrangement of the total 63.88 acres results in no additional units. Parcels designated as A-1 and A-2 may be subdivided with a maximum of 1 dwelling unit per 10 acres. The proposed rearrangement does not affect density and exceeds the permitted density ranges of both land use designations. Further, the intent of the A-1 & A-2 land use designation is to promote rural residential and agricultural uses. The proposed lot line rearrangement is consistent with those objectives.

City Planner Swanson stated the following site and zoning requirements in the A-1 and A-2 districts are defined as the following for lot standards and structural setbacks:

<b>Dimension</b>	<b>Standard</b>
Lot Area	5 acres
Lot Width (public street)	300’
Lot Depth	300’
FY Setback – County Road (Centerline)	150’
Side Yard Setback (Interior)	20’
Rear Yard Setback	50’
Maximum Height	35’

The proposed subdivision is depicted on Attachment A. As shown the proposed subdivision would result in newly created Parcel A and Parcel B. The following summary of each created parcel is identified on the table below:

**Lot Tabulation:**

<b>Parcel</b>	<b>Size</b>	<b>Frontage/Lot Width</b>	<b>Lot Depth</b>
Parcel A	20.88 Acres	390.96’	~1,144’
Parcel B	42.99 Acres	355.0’	1753.32’

***As proposed, both created lots meet the city's dimensional standards for size, frontage/lot width and lot depth.***

The existing homestead and accessory structures are located on Parcel A, are subject to the city's setback requirements because of the proposed rearrangement. The existing principal structure is setback approximately 210-feet from the right-of-way line of Grenelefe Avenue North and exceeds the City's minimum setback from a roadway. The created lot lines will extend the bounds of Parcel A resulting in greater setbacks from the rear yard lot line, and as identified in the Existing Conditions, the existing home and accessory building in the current configuration meet the City's setback standards. Given that the area to be transferred to Parcel A is located at the rear of the lot and will effectively extend the area; it is assumed that the Applicant may propose to construct an accessory building on this portion of the property. ***While there are no building plans provided or submitted as part of this application, staff would recommend including a condition that all future structures and improvements will be subject to the applicable setback rules and regulations in effect at the time of application.***

No new access or driveways are proposed as part of this application. There is an existing driveway that serves the existing home on Parcel A, and a driveway that provides access to Parcel B.

As previously stated there is one (1) accessory structure on the Parcel A which is approximately 1,320-square feet. As proposed in the lot line rearrangement, Parcel A and Parcel B will both be greater than 20 acres. Per section 32-313, parcels greater than 20-acres are permitted an unlimited number of accessory buildings and there is no restriction of total allowable square footage. It should be noted that other regulations, such as impervious surface coverage, setbacks, watershed district standards, along with any other regulatory standards will still be applicable, and proper permitting will be required for any new structure.

The existing home on parcel A is currently served by a septic system that will continue to be used for the existing homestead. Both the septic system and well are located on Parcel A. ***Staff would recommend including a condition that any redevelopment of Parcel A with a new, or substantially larger, principal structure may necessitate a new septic system and at such time a septic permit must be obtained from Washington County.*** The Applicant did not provide or submit soil borings for Parcel B. The resulting vacant Parcel B is in excess of 20-acres, and when considered in conjunction with the provided information and aerial data appears to contain adequate area on which a septic system could be constructed. ***Staff would recommend including a condition of approval that a septic permit must be acquired from Washington County prior to the city issuing a building permit for a principal structure on Parcel B.***

There is an existing well on Parcel A that will continue to be used for the property. Since Parcel B is vacant and no home is designed yet for the lot no well has been installed. ***Staff would recommend including a condition that if and when a new home is proposed on Parcel B that***

***the appropriate permits to install a well must be obtained prior to the city issuing a building permit.***

The Applicant is proposing to rearrange/re-subdivide the lots into a new configuration. As stated within Section 30-10 resubdivision of lots that have been platted is permitted provided that the right to do so was established within Sec. 30-10 (c). A copy of the Final Plat for Northridge Acres Block 3 was not provided, or a copy of a Development Agreement, which must be submitted to demonstrate that the rearrangement is permitted. ***Staff would recommend that a condition be added that evidence/documentation in a form acceptable to the City as detailed within Section 30-10 (c) be submitted prior to approval of any subdivision.***

Additionally, the Applicant is proposing to rearrange the subject properties and will not re-plate the resulting lots. As such, some of the requirements such as substantially straight lot lines, etc., are not considered in this staff report. The Planning Commission and City Council must determine if the proposed transfer by metes and bounds, and the irregular shape of the rearrangement is acceptable. This discretion is provided for within Section 30-9 (1) which states the following, “In the case of a subdivision resulting in two or less parcels situated in a locality where conditions are well defined, the city council may exempt the subdivider from complying with some of the requirements of this section.”

As previously discussed, if and when development or redevelopment of Parcel A and Parcel occurs proper permits for installation of wells, septic systems, or driveways will be subject to review and approval of the appropriate permitting authorities.

Staff is requesting a recommendation from the Planning Commission reflecting one of the following options:

- Recommendation to the City Council of Approval with Draft Conditions
- Recommendation to the City Council of Denial with Findings
- Continue the discussion to the next available Planning Commission, and request additional information from the Applicant, if applicable

If the Planning Commission recommends Approval, the following draft Conditions are provided for your consideration:

- 6 The Applicant shall provide acceptable verification in the form of a Final Plat or Development Agreement of Northridge Acres that the platted lots are permitted to be rearranged.
- 7 All future structures and improvements, accessory and principal, must comply with the city’s wetland buffer setback requirements for Parcel A and Parcel B.
- 8 All future structures and improvements will be subject to the applicable setback rules and regulations in effect at the time of application for both parcels.

- 9** Any redevelopment of Parcel A with a new, or substantially larger, principal structure may necessitate a new septic system and at such time a septic permit must be obtained from Washington County prior to the City issuing a building permit.
- 10** A septic permit must be acquired from Washington County prior to the city issuing a building permit for a principal structure on Parcel B.
- 11** If and when a new home is proposed on Parcel B the appropriate permits to install a well must be obtained prior to the city issuing a building permit.

Commissioner Tufty moved to open the public hearing at 7:00 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

Mr. Paul Rogesheske, 11365 Grenelefe came forward and stated he is the President of the North Ridge Acres Association. The 60-acre lot has to remain as it accounts for the smaller lots. There are also covenants in place stating the use has to be residential. He requested the Planning Commission table the request until the homeowner can come speak to the Association.

Ms. Teresa Urbanak, 11595 Grenelefe, came forward and stated all the neighbors are following the covenants and it is unethical that this property owner does not have to.

Commissioner Tufty moved to close the public hearing at 7:14 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

City Planner Swanson stated the City does not get involved with covenants. It is up to the neighbors to adhere to them. The application does not create any new lots. There are two current lots and two lots will remain so the density is not relevant. There is no feasible way to subdivide the larger parcel and meet the City ordinances.

Mr. Matt Owen, Applicant, came forward and explained the curved shape of the lot line adjustment in terms of the current driveway and extensive trees that have been put in. There are no physical changes being proposed to the lots and no further subdivision. The only plan is for a single family residential unit on the larger parcel.

Commissioner Tufty moved to recommend approval of Minor Subdivision application as presented. Commissioner Helander seconded the motion. MOTION carried unanimously.

This item will be on the regular Council agenda April 3, 2018.

**B. PUBLIC HEARING, Consideration of Variance Application, Ordinary High-Water level Setback for Ground-Mounted Solar system, 11541 Ironwood Avenue N** – City Planner Swanson advised the Applicant (“Applicant”), All Energy Solar, on behalf of the Owner Anna Firshman (“Owner”) has requested a variance from the required ordinary high-water level (“OHWL”) setback on a natural environment lake for installation of a new ground-mounted solar PV system on the property located at 11541 Ironwood Avenue North, Stillwater, MN 55082. The proposed system is a residential ground-mounted system and would be located south of the existing principal structure and north of Mann Lake. The Applicant has indicated after studying the existing site, that the proposed location would achieve the most adequate conditions for solar collection, and as a result has requested this variance.

The following staff report summarizes the requested variance, and existing conditions of the site.

Applicant: All Energy Solar Owner: Anna M Firshman	Site Size: 28.12 Acres Location: 11541 Ironwood Avenue North, Stillwater, MN 55082 Zoning & Land Use: A-1
Request: Variance from setback requirements to construct a ground mounted solar PV system within the required 200-foot setback from a natural environment lake.	

The Applicant, on behalf of the Owner, is requesting a variance from the required setback from Mann Lake, which is classified as a natural environment lake. A summary of the Applicant’s narrative and submitted application is provided as follows:

- The proposed project would construct and install a new ground-mounted solar PV system on the subject parcel.
- The current property is used as a principal resident, and there is an existing home and an accessory structure on site.
- The site is naturally constrained by Mann Lake which is located to the south of the existing home and accessory building, and there are additional wetland areas on the northern portion of the property.
- The Applicant has stated that they have performed various analyses and concluded that the proposed location would result in the most adequate location for solar collection on the property.
- The Owner has been awarded a rebate from the Minnesota Solar Rebate program, and the Applicant states that rebates are based on the amount of “actual, real time production of the solar array and a more efficient system will result in the best rebate amount possible...”
- After site evaluation, the Applicant contends that the best location for the ground-mounted solar array is within the required setback. The Applicant’s materials identify that the proposed system would encroach into the required setback from the Ordinary

High Water Level (OHWL) approximately 36-feet given a 150-foot setback. However, based on the City's ordinances the required structural setback is 200-feet, thus resulting in an encroachment of approximately 86-feet into the required setback.

City Code Sections 32-59 and 32-60 establish the criteria to review and approve variance requests. The variance application process requires the Applicant to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) describing how, "the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district....Economic considerations alone shall not constitute a hardship." The Applicant's statement can be found in Attachment A.

The subject property is located on the east side of Ironwood Avenue North and is on the north side of Mann Lake. The existing home and accessory building are accessed by a single driveway from Ironwood Avenue North, which appears to be a shared driveway with the property directly west of the subject site. The site is sparsely vegetated with planted/landscaped trees primarily along the property lines and shorelines, offering some buffering and privacy from adjacent homes and roadways. Per the Applicant's narrative topographical conditions include natural swales and a highpoint where the homesite is located. Based on the National Wetlands Inventory (NWI) the shoreline of Mann Lake is designated as a likely wetland area, which extends northwest into the property on the eastern half of the lot (See Attachment B). Mann Lake is listed on the Public Waters Inventory (PWI) as protected water #82-121 and is classified as a natural environment lake. There is an existing principal structure and accessory building which are generally located near the center of the subject property. As indicated on an aerial view, the majority of the site appears to be mowed or in some type of low ground cover with intermittent manicured vegetation. In addition to Mann Lake, the northeastern portion of the property is designated within the FEMA flood zone or is within a wetland.

Recently the city amended its ordinances to allow for residential solar systems provided certain conditions were met. To address residential solar energy systems Chapter 32 was amended to add in Division 5 which provided definitions and regulations of both roof-mounted and ground-mounted residential solar installations. The following zoning review is provided for the proposed ground mounted system for consistency with **Section 32-457 Residential Solar Energy Systems subsection (c) Ground Mounted – solar equipment** establishes criteria for siting a ground mounted system and the sections which are applicable to the requested variance are the following:

- (1) Solar energy systems shall only be allowed as an accessory use on a parcel with an existing principal structure.

*There is an existing principal structure on the property, and the proposed ground-mounted system will be accessory to the principal use. This criterion is met.*

- (2) Solar energy systems shall be set back a minimum of 100 feet from a property line with an adjacent residential home, and shall be sited to meet all other applicable structural setback standards within the zoning district for the remaining lot lines.

*The location of the proposed ground mounted system is setback approximately 150-feet from the westerly property line, which is adjacent to a neighboring residential use. The proposed location meets this ordinance requirement.*

- (3) The ground equipment shall be constructed outside of all wetland and shoreland setbacks as adopted within this City's ordinances.

*Lake (shoreland) and wetland setbacks are regulated in Chapter 12 Section 12-260. The ordinance provides that structures must be setback 200-feet from a natural environment lake. As proposed this criterion is not met, and therefore the Applicant has requested a variance. Further analysis regarding the variance from the setback standards can be found in subsequent sections of this report.*

- (4) The footprint occupied by a solar energy system shall not exceed 1,000 square feet.

*The proposed ground mount system includes approximately 569 square-feet of solar panels configured in a ground mount array. As proposed, this criterion is met.*

- (5) The equipment or device may not exceed a height of 15 feet.

*As shown in the submitted plan set it appears that the maximum height of the system is 12'10". The Applicant should confirm that this is the maximum tilt and represents the maximum height.*

- (6) The zoning administrator may require landscaping or other means of screening to limit visual impacts of the Solar Energy System.

*This criterion is not evaluated because the Applicant's narrative suggests that the system will not be visible from adjacent properties or public right of way. Further evidence of this statement, which may include cross sections or other topographic analysis, should be provided to determine appropriate screening if an acceptable location for the system is identified.*

- (7) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.

*The Applicant provided evidence from an engineer that the system will be constructed according to building and electrical codes.*

- (8) The equipment or device must comply with all state and federal regulations regarding co-generation of energy.

*This is a general standard that staff would recommend be included as a condition of approval, if approval is recommended.*

- (9) All solar arrays or panels shall be installed or positioned to not cause any glare or reflective sunlight onto neighboring properties, structures, or obstruct adjacent views.

*The Applicant stated that the installation will not be visible from adjacent properties. As noted in item #6, further evidence that the installation is not visible should be provided.*

- (10) The city may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the public health, safety, and welfare and to promote harmony with neighboring uses.

*To be determined after evaluation, and necessary conditions identified in the review process.*

As noted in Item #3, the proposed ground mounted solar array will encroach into the OHWL setback of Mann Lake. The structure setbacks from natural environments are established in Chapter 12 of the City’s Code, Section 12-260 subsection (a)(1) which breaks down the applicable standards for public waters by type, unclassified and classified water bodies.

The following description of the variance and standard is identified in the following table:

Classes of Public Waters	Required	Description
Natural Environment	200’	Lake, natural environment, means generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock, and unsuitable soils.

City Planner Swanson stated the following review is provided for consideration of the requested variance. There are four (4) criteria established to define a ‘hardship’ or ‘practical difficulty’ within the ordinance, as provided in previous sections of this report that must be evaluated when

considering a variance request. For purposes of this report, the following criteria area numbered, and referenced in the remaining sections of this report.

1. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the Zoning Ordinance or its amendments and no other reasonable alternate use exists.
2. The plight of the landowner must be due to physical conditions unique to the land, structure, or buildings involved and are not applicable to other lands, structures, or buildings in the same zoning district.
3. These unique conditions of the site cannot be caused or accepted by the landowner after the effective date of the Zoning Ordinance or its amendments.
4. Economic considerations along shall not constitute a hardship.

Summary:

Standard	Required	Proposed	Variance	Description
OHWL	200' (structures)	114' +/-	86' +/-	The Applicant's site plan identifies the OHWL which is denoted with a red dotted line. It is unclear the source of the information to determine the OHWL. Additionally, the Applicant identified a 150-foot setback which is denoted with a yellow dashed line. The City's ordinance identifies a 200-foot setback, so this line would need to be adjusted and resubmitted for evaluation.

The Applicant states that the proposed location of the ground-mounted solar array is the best based on several conditions which is summarized as the following:

- (1) A roof-mounted system would not provide an ideal tilt angle and orientation, resulting in lower energy production compared with the current proposed location.  
*Response: While the roof-mounted system is stated as not 'ideal', it does not eliminate it as a viable solution. Based on Criteria #1, a hardship is not established based on the narrative and materials submitted.*
- (2) It is less visible from the right of way or neighboring parties compared with other ground-mounted locations.  
*Response: Section 32-457(c)(2) and (6) identify visual impact of neighboring properties as a consideration. However, the ordinance allows for screening through vegetation and other means. Further, no evidence was provided to support this*

*statement as no other alternate locations were identified in the submitted materials. Based on Criteria #1, a hardship is not established based on the materials submitted.*

- (3) The current proposed ground-mounted location provides the most adequate access to sunlight and other locations would require excessive removal of existing vegetation and alterations of the ground.

*Response: The Applicant stated that other locations were evaluated, and that the proposed location is far superior in generating adequate access to sunlight. The aerials and submitted materials do not demonstrate significant vegetation on-site so it is unclear what vegetation would need to be removed. Further the majority of the vegetation appears to be planted and heavily landscaped. If alternate locations had been identified a more thorough review of this statement could be made. Based on Criteria #1 and #3, a hardship is not established based on the materials submitted.*

- (4) Topographical conditions including; the natural swale south of the house and the floodplain to the north limit alternative locations.

*Response: Staff agrees that there are significant site constraints on the property which limit the area on which a ground-mounted system could be located. However, the materials submitted lack the detail to be able to confirm this statement. No topographical data was provided to confirm that there would not be adequate area to site the system in alternate locations outside of applicable setbacks. Additionally, based on the materials submitted the Applicant acknowledges that there are alternate locations, they are just not their preferred locations. Based on Criteria #1 and #2, a hardship is not established based on the materials submitted.*

- (5) A roof mounted system would be 8% less productive due to the lack of adequate sunlight and furthermore, affects the owner's ability to receive a rebate from the Minnesota Department of Commerce: Made in Minnesota Solar Rebate Program. According to the applicant the difference equates to a system warranted for 25 years that pays for itself in six years compared to one that pays for itself in 18 years. The time in which a solar system pays for its self is directly related to how much solar radiation it receives daily and that is directly attributed to the location and tilt angle of the solar PV system.

*Response: While staff understands the desire to install the most efficient system possible, the Criteria for a variance explicitly states that economic considerations alone do not constitute a hardship. Further, the statement confirms that other locations are available, that would still be productive, just not as productive as the selected location. Based on Criteria #4, a hardship is not established based on the materials submitted. However, staff does believe this is a reasonable basis to support the variance request provided other practical difficulties could be demonstrated.*

- (6) An excerpt from Minnesota Statute 462.357, Subd. 6, Paragraph 2 stating that “practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems”.

*Response: Preceding this statement within the statutes is also a statement that a variance request on this basis must also be in harmony with the City’s ordinances. Ironically Section 12-255 Shoreland Zoning and Protection provides a list of reasons why the ordinance is established, and the most applicable based on information submitted and provided, are to (2) Regulate the alteration of shorelands of public waters; and to (3) Regulate alterations of the natural vegetation and the natural topography along shorelands. There is no information provided by the Applicant that would suggest installing the system within the shoreland setback area would not be in opposition to the intent and purpose of the ordinance. Based on information provided, the Applicant does not demonstrate how the proposed variance would be in harmony with the city’s ordinances.*

Based on the information submitted, it is difficult to determine whether there are additional/alternate site locations that could support the proposed structure outside of applicable setbacks because the site plan does not denote the setback accurately. Additionally, no source was provided to the OHWL, and it is unclear what information was used to establish the boundary. As such, staff would recommend that an updated site plan be prepared if the Planning Commission considers recommendation of the variance to accurately demonstrate the encroachment. Regardless of the site plan, the lot is approximately 28 acres and based on the scale of the proposed solar array as shown on the site plan there appears to be enough area outside of setbacks where the ground mounted solar system could be constructed. To provide additional clarity, staff researched the FEMA flood zone areas as well as the National Wetland Inventory to determine the extent of the impact on the site based on those data sources (See Attachments B and C). As shown on the maps, there appears to be significant areas outside of the designated floodplain and wetland area. In addition, the Applicant noted the presence of underground systems/utilities which staff assumes is the septic system and drainfields. While this does occupy a significant portion of the upland/buildable area, staff believes there still remains area outside of setbacks that would not conflict with the septic system. Since this analysis is completed without the benefit of an updated site plan, if the Applicant can demonstrate that this analysis is inaccurate then staff would recommend an exhibit be prepared that demonstrates the constraints and provides proper source data so that the information can be verified.

As written, the Applicant acknowledges that the proposed location would be the most ‘adequate’ but does not discount that there are likely other areas on site where the system could be constructed. Several of the points of justification provided by the Applicant reference topography and visual access as part of the justification for siting the system in the proposed location. However, a topographic map and any supporting visual study were not submitted with the application to demonstrate the visual impact (or potential impact created in alternate locations). If this constraint is a reasonable justification from the perspective of the Planning

Commission, then staff would recommend that an exhibit(s) be prepared demonstrating how the visual impact is reduced given the current location. The topographical and vegetation removal conditions are described as limiting factors but do not completely disallow the installation of the system in alternate locations. If topographical conditions are a limiting condition, then a map or figure should be provided that demonstrates this constraint.

The proposed location of the solar PV system is within the buffer pertaining to Mann Lake, which is listed on the Minnesota Department of Natural Resources Public Waters Inventory as (#82-121). If the planning commission and city council recommend approval of the variance then staff would recommend a condition that prior to construction the MNDNR will need to review installation of the proposed system and obtain all necessary permits.

The following draft findings related to the hardship (practical difficulty) are provided for your review and consideration:

- The Applicant's submitted materials do not demonstrate a hardship based on the City's criteria for consideration and evaluation.
- Alternate locations are available to site either a ground-mounted solar array or to install a roof-mounted system.
- No detail regarding topography of the site was provided, and therefore statements within the Applicant's narrative regarding prohibitive conditions cannot be verified.
- The proposed encroachment into the shoreland setback on a natural environment lake is not in harmony with the intent and purpose of the city's ordinances.
- The efficiency of the system and economic impact cannot be considered alone as justification for a hardship based on the City's criteria, and the Applicant did not demonstrate a hardship based on the remaining criteria.

Staff is seeking a recommendation from the Planning Commission regarding the application. Based on the information submitted Staff recommends denial of the variance. If the Planning Commission recommends denial, staff will prepare a resolution with the draft findings as provided. Alternatively, the Planning Commission could do the following:

- Recommend approval of the requested variance with findings and conditions.
- Table the action and request additional information from the Applicant. If the Planning Commission requests additional information, staff would request, at a minimum the following:
  - Updated site plan to reflect appropriate setback
  - Alternate locations considered, and corresponding site impacts/considerations
  - Visual Analysis to include cross sections demonstrating impact of existing location, and alternates considered

- Updated narrative describing how the encroachment is in harmony with the intent and purpose of Article VII. Shoreland Zoning and Protection, Chapter 12.

Commissioner Schafer moved to open the public hearing at 7:40 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

Ms. Mickelle, Giefer, 1192 Imperial, came forward and stated it does sound like there are other viable options for a location. She stated it is important to follow the ordinance and she is not in favor of granting a variance.

Ms. Tina Lobin, 11034 Irish Avenue, came forward and stated she prefers solar panels be placed on a roof. She would be able to see it in the yard when facing the lake and there are other places to put it.

Commissioner Tufty moved to close the public hearing at 7:43 p.m. Commissioner Schafer seconded the motion. Motion carried unanimously.

Ms. Kirstin Sachowitz, Applicant, came forward and stated the updated maps that were distributed limits alternate location. She pointed out the flood plain and swale indicating the trenching would have to go all the way around the house. That would result in over 350 feet just to trench at a cost of \$10,000. No other locations will work. She stated the plan is meeting harmony with intent. Solar energies increase property values but also benefit the environment. The proposed locations is heavily screen by trees and the roof plan faces south east so it could not lay flat. The savings of the current plan result in over \$1,000 per year over a roof plan.

Ms. Fishman, owner, came forward and stated the roof would make the panels more visible to more people than the proposed location. The barn won't support the panels and there is a steeper swale by the house so it can't be located there.

Commissioner Schaffer moved to recommend denial of the Variance Application, 11541 Ironwood Avenue. Commissioner Helander seconded the motion. Motion carried unanimously.

This item will appear on the regular Council agenda April 3, 2018, 7:00 p.m.

## **6. OLD BUSINESS**

There was no old business.

## **7. ADJOURNMENT**

MOTION by Commissioner Tufty to adjourn the meeting at 7:17 p.m. Commissioner

Drost seconded the motion. MOTION carried unanimously.

Respectfully submitted,

Kim Points  
City Clerk

APPROVED