



SCOTT COUNTY
PLANNING ADVISORY COMMISSION
MEETING MINUTES

Scott County Government Center
County Board Room
200 Fourth Ave West
Shakopee, Minnesota

Monday, June 12, 2023
County Board Room at 6:30 PM

I. ROLL CALL AND INTRODUCTIONS

Chair Vonhof opened the meeting at 6:55 PM with the following members present: Ammar Husain, Jay Picha, Kent Robbins, Ray Huber, Tom Vonhof, Donna Hentges, and Lee Watson.

County Staff Present: Brad Davis-Planning Manager, Marty Schmitz-Zoning Administrator; Greg Wagner-Principal Planner, Nathan Hall-Associate Planner; Tom Wolf-County Board Commissioner and Rachel Nosbush-Deputy Clerk to the Board.

II. APPROVAL OF MAY 8, 2023 PLANNING ADVISORY COMMISSION MINUTES

Motion by Commissioner Robbins; second by Commissioner Huber to approve the minutes of May 8, 2023 Planning Advisory meeting.

III. CONSENT AGENDA

3.1 CONSENT HEARING 6:57 PM: POWELL REZONE (PL#2023-032)

- A. Request to Rezone 79.45 Acres from A-1, Agricultural Preservation District, to A-3, Agricultural Preservation Density District.

Location: Section 22

Township: Belle Plaine

Current Zoning: A-1, Agricultural Preservation District

Motion by Commissioner Picha to close the public hearing; second by Commissioner Hentges. The motion carried unanimously.

Motion by Commissioner Huber; second by Commissioner Robbins to approve the Consent Agenda as written and noting Town Board approval. The motion carried unanimously.

Criteria for Approval:

- The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official County Comprehensive Plan.*
The proposed rezoning conforms to the goals and policies contained in the 2040 Comprehensive Plan for preservation of agricultural land.
- The proposed use is or will be compatible with present and future land uses of the area.*
The use is not changing and while the lot size is being reduced the overall density will remain at one unit per 40 acres.
- The proposed use conforms to all performance standards contained in this Ordinance.*
The use of the property is not changing, the majority of the property will remain in agricultural production.

4. *The proposed use can be accommodated with existing and planned public services and will not overburden the County or Township's service capacity.*
The use is not changing and therefore will not adversely impact public service capacity for local service providers.
5. *Traffic generation by the proposed use is within capabilities of streets serving the property.*
The existing residence has frontage on Fabor Avenue and the access point will not be altered. The remaining agricultural parcel will have an easement that allows for field access.

Chair Vonhof called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye
Commissioner Picha: Aye
Commissioner Robbins: Aye
Commissioner Huber: Aye
Commissioner Vonhof: Aye
Commissioner Hentges: Aye
Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

IV. PUBLIC HEARING

4.1 PUBLIC HEARING 6:59 PM: RICE LAKE ESTATES REZONE, PRELIMINARY PLAT & FINAL PLAT (PL#2023-030)

- A. Request to Rezone 10.74 acres from RR-1, Rural Residential Reserve District to RR-2 Rural Residential Single Family District.
- B. Preliminary Plat of Rice Lake Estates Second Addition consisting of 4 lots on 10.74 acres.
- C. Final Plat of Rice Lake Estate Second Addition consisting of 4 lots on 10.74 acres.

Location: Section 12

Township: New Market

Current Zoning: RR-1, Rural Residential Reserve District

Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available at the Scott County Website link: [June 12, 2023 Planning Advisory Commission](#) Agenda Packet. The staff report can be found in the full agenda packet located by clicking Planning Advisory Commission.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Planning Advisory Commission.

Commissioner Comments and Questions:

Commissioner Huber asked for clarification with the road extension signs.

Mr. Wagner explained that townships would regulate a road extension sign, and some townships do require them, and staff would pass this suggestion on to New Market Township.

Commissioner Huber asked that the Township takes this into consideration.

Chair Vonhof verbally opened the public hearing.

Public Comments and Questions at the Podium

Constantine Contolatis, neighboring property owner, made comments about the neighborhood. He said he bought property in this area because of its natural setting and spent time working with and preserving his land and creating a home for his family. Mr. Contolatis expressed concern he was not aware of any public hearing

notification. He said he would like to know how the proposed development can create more than three lots and would like to know about the wetland delineation work that was done.

Mr. Wagner responded that staff uses a GIS mapping system to pull tax addresses from a half mile radius of any property being heard before the Planning Commission for mailings to be sent out and Mr. Contolatis would have been notified at his notification address (owners can request the county mail documents such as legal notices and tax statements to a specific address). Mr. Wagner further responded to the wetland delineation concern that Townships are responsible for enforcement of the Wetland Conservation Act (WCA) and the township contracts with the Scott SWCD (Soil & Water Conservation District) for review. A copy of the delineation is submitted to the SWCD and also to county staff. After the wetland delineation reports have been completed there is a 60 day agency review before a technical evaluation panel convenes on-site for a site review, which they did and concurred with the wetland delineation.

Mr. Wagner explained that under the County's Comprehensive Plan this northeastern area of New Market is allowed 2.5 acre development. The County is aware of private covenants on this property; however, private covenants are not enforceable by the county or township, and after review with the county attorney's office that the Planning Commission should base any recommendation on the Scott County Zoning and Subdivision Ordinances.

Commissioner Huber questioned the drainage pre-settlement levels assuming this happened with this property as part of the first phase.

Mr. Wagner responded the engineer who did the Rice Lake Estate is the same engineer the Applicants are using now so this helped in the preparation and review of the stormwater management. The project meets county requirements subject to submitting a Stormwater Pollution Prevention Plan (SWPPP).

Commissioner Picha had questions for Mr. Contolatis how long he lived on his property.

Mr. Contolatis responded since 2018.

Commissioner Picha asked if he was aware of the possibility of the platting.

Mr. Contolatis explained he was aware of the ghost platting for about 18 lots.

Commissioner Picha questioned the broken tile and if it was on his property.

Mr. Contolatis responded it was.

Motion by Commissioner Hentges to close the public hearing; second by Commissioner Robbins. The motion carried unanimously.

Motion by Commissioner Huber; second by Commissioner Robbins, based on the criteria for approval listed in the staff report, I recommend approval of the Rezoning of 10.74 acres from RR-1, Rural Residential Reserve District, to RR-2, Rural Residential Single Family District, and the Preliminary & Final Plat of Rice Lake Estates Second Addition consisting of 4 lots on 10.47 acres noting that this recommendation is subject to the conditions listed that must be satisfactorily addressed prior to County Board consideration. Noting Town Board recommendations forthcoming at the July meeting.

Commissioner Robbins commented that they can pass this matter tonight but there are conditions that need to be met prior to going to the County Board.

Chair Vonhof called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye

Commissioner Picha: Aye

Commissioner Robbins: Aye

Commissioner Huber: Aye

Commissioner Vonhof: Aye

Commissioner Hentges: Aye

Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

Criteria for Approval:

1. *Adequate Drainage* – the proposed plat will meet all storm water drainage requirements as identified in Chapter 6 of the zoning ordinance prior to County Board consideration.
2. *Adequate Potable Water Supply* – the proposed plat, utilizing individual wells, meets the requirements of the zoning and subdivision ordinances.
3. *Adequate Roads or Highways to Serve the Subdivision* – The proposed lots will have frontage and access off of the new township road, Hall Drive, which will be constructed to New Market Township road standards.
4. *Adequate Waste Disposal Systems* – the proposed lots will meet all requirements of the individual sewage treatment system ordinance prior to County Board consideration.
5. *Consistency with the Comprehensive Plan* – the proposed plat conforms to the goals and policies contained in the 2040 Comprehensive Plan for the development in the Rural Residential Growth Area.
6. *Public Service Capacity* – the proposed development does not adversely impact the public service capacity of local service providers as the lots will utilize a new Township road for access.
7. *Consistency with the Minnesota Environmental Quality Board's Policies*- the proposed subdivision does not meet the minimum thresholds for an Environmental Review.
8. *Consistency with Capital Improvement Plans* – the proposed plat is not requiring any county funded road improvements; therefore, it is consistent with the County's capital improvement plan.

4.2 PUBLIC HEARING 7:25 PM: DAKOTA ELECTRIC CONDITIONAL USE PERMIT (PL#2023-023)

- A. Request for a Conditional Use Permit to establish an electric substation.

Location: Section 25

Township: New Market

Current Zoning: UBR, Urban Business Reserve

Nathan Hall presented the staff report for this application. The specific details within the staff report and a video are available at the Scott County Website link: [June 12, 2023 Planning Advisory Commission](#) Agenda Packet. The staff report can be found in the full agenda packet located by clicking Planning Advisory Commission.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Planning Advisory Commission.

Commissioner Comments and Questions:

Chair Vonhof explained to the assembly this matter was a continuation from the May 8, 2023, Planning Advisory Commission meeting as this matter was tabled until further information provided for concerned citizens and questions from the Commissioners could be answered.

Brad Davis, Planning Manager, made comment that at the previous meeting the Commission had closed the public hearing and then tabled the matter, so this item is not a continuation of a public hearing.

Derick Teich, Dakota Electric, gave a presentation responding to questions and concerns from the previous meeting.

Commissioner Robbins questioned where in the nearby industrial park was Dakota Electric originally looking at siting a substation.

Mr. Teich explained that through working with Ryan Companies, there was only one location that would have worked meeting all of the technical requirements, but that site would have been extremely costly to develop and there would have been wetland impacts associated with the site

Commissioner Hentges stated that she recognizes there is a lot more that goes into siting a substation location aside from costs and appreciates the technical reasons provided by the applicant.

Commissioner Watson questioned if Dakota Electric has had any complaints with their other 32 substations. *Mr. Teich responded they have not had any complaints he is aware of.*

Commissioner Hussain questioned the strength of the electric magnetic fields on neighboring properties, which as he understands it depends on the distance from the station to adjacent homes.

Mr. Teich explained there is 130 feet of distance from the most northerly part of the substation to the adjacent property line, and with the kilovolts generated from this planned substation, this distance is more than enough to minimize EMF concerns based on technical studies provided in his presentation.

Chair Vonhof questioned the noise generation and the EMF concerns raised at the last meeting.

Mr. Teich explained how sound dissipates over space and the calculations it takes to come up with the sound generation. Mr. Teich further explained the exact units they intend to use at this location, its sound output guaranteed is to run at 73 decibels at its absolute highest, which he further explained he was being generous with this number as the unit being installed runs slightly lower than 73 decibels. In addition, this is the sound of an air conditioner running outside a home on a summer day, and between this level and the distance of 130 feet to the northerly property line he feels confident the sound will not be an issue. Mr. Teich responded to the EMF concerns and explained that from a transmission line the EMF drops drastically over distance and after 100 feet from the transmission line there is no indication of radiation.

Commissioner Robbins stated that he made a site visit to three different Dakota Electric substations and said all he heard at those sites was the ambient sounds from traffic and wind but could not hear anything coming from the substation.

Chair Vonhof stated that other Commissioners had visited substations and he had come to the same conclusion.

Commissioner Watson commented he visited a Great River substation in a neighborhood that was located roughly 150 feet from the nearest boundary line and did not notice any sound coming from the station.

Chair Vonhof asked for motion.

Motion by Commissioner Robbins; second by Commissioner Watson, based on the criteria for approval listed in the staff report, I recommend approval of the Conditional Use Permit for Dakota Electric to establish an electric substation.

Commissioner Robbins made his appreciation known to Dakota Electric for their efforts made to answer their questions and to the concerned neighboring property owners for expressing their concerns.

Commissioner Hussain made comments on emf that this has been established and there are standards that need to be adhered too and with this understanding he is satisfied with this matter.

Chair Vonhof called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye

Commissioner Picha: Aye

Commissioner Robbins: Aye

Commissioner Huber: Abstained

Commissioner Vonhof: Aye

Commissioner Hentges: Aye

Commissioner Watson: Aye

The motion passed unanimously with 6 Ayes, 1 abstention.

Criteria for Approval:

1. *The use will not create an excessive burden on public facilities and utilities which serve or are proposed to serve the area.*
The proposed use will not have any impact on public facilities that serve the property. Access to the site is from a gravel Township road. Once the substation is constructed traffic generated to the site will be limited. The facility itself serves public utilities and will provide electricity to the public.
2. *The use will be sufficiently compatible with, or separated by sufficient distance from, or screened from adjacent agricultural or residential land uses so that there will be no deterrence to the use or development of adjacent land and uses.*
The facility will be setback from the property lines by the distances required in Chapter 16 of the Zoning Ordinance.
3. *Each structure or improvement is so designed and constructed that it is not unsightly in appearance to the extent that it will hinder the orderly and harmonious development of the district wherein proposed.*
The proposed facility is a typical design for a substation and not out of character for the rural area.
4. *The use is consistent with the purposes of the Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.*
The proposed essential services facility is consistent with the intentions of Chapter 16 of the Zoning Ordinance. Essential services is a conditional use in the UBR District.
5. *The use is not in conflict with the Scott County 2040 Comprehensive Plan.*
The Scott County Comprehensive Plan allows for the Essential Services use in the unincorporated areas.
6. *Adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion, provide adequate access to public roads, and provide sufficient on-site parking. Adequate measures have been taken to provide ingress and egress, access to public roads and on-site parking.*
Access will be via Dupont Avenue a gravel New Market Township road. The site will be able to accommodate parking on-site.
7. *Adequate water supply, individual sewage treatment system facilities, erosion control and stormwater management are provided in accordance with applicable standards.*
No water and sewer are present at the facility. Onsite stormwater management has been designed.
8. *All building/structures meet the intent of the State Building Code and/or fire codes.*
Structures will be required to meet Building Code and other relevant regulations.

4.3 PUBLIC HEARING 7:52 PM: UNION TRAIL, LLC., CONDITIONAL USE PERMIT (PL#2023-033)

- A. Request for Conditional Use Permit for Union Trail LLC to operate a microbrewery, taproom, and private event space.

Location: Section 8

Township: Blakely

Current Zoning: A-1 Agricultural Preservation

Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available at the Scott County Website link: [June 12, 2023 Planning Advisory Commission](#) Agenda Packet. The staff report can be found in the full agenda packet located by clicking Planning Advisory Commission.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Planning Advisory Commission.

Commissioner Comments and Questions:

Chair Vonhof asked for clarification on the septic pumping system and its frequency.

Mr. Wagner responded as there is no septic so the business uses a holding tank, and the Applicant will be pumping the tanks with a licensed pumping service under a service agreement to be on record with the County.

Commissioner Picha questioned why they are unable to put in a septic system to the north of the property.

Mr. Wagner explained due to hydric soils and the flood plain this property does not have suitable soils for a septic site.

Commissioner Huber questioned that this is intended to be a part of the Blakeley Park boundaries and what are the intentions regarding this.

Mr. Wagner responded that County Parks and the applicants have spoken about the future Blakeley Regional Park so there is an understanding of the future for this area. There are no plans to purchase property in this area by the park. Mr. Wagner further explained that amending the regional park boundary would need Met Council approval and at this time there is no need to proceed with an amendment. The County Parks Department would discuss further if the Applicant intends to sell their property in the future.

Chair Vonhof verbally opened the public hearing.

Public Comments and Questions at the Podium

No one approached the podium.

Motion by Commissioner Picha to close the public hearing; second by Commissioner Hentges. The motion carried unanimously.

Motion by Commissioner Watson; second by Commissioner Hentges, based on the criteria for approval listed in the staff report, I recommend approval of the Conditional Use Permit for Union Trail LLC to operate a microbrewery, taproom, and private event space.

Chair Vonhof called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye
Commissioner Picha: Aye
Commissioner Robbins: Aye
Commissioner Huber: Aye
Commissioner Vonhof: Aye
Commissioner Hentges: Aye
Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

Criteria for Approval (Chapter 2-6-1):

1. The use will not create an excessive burden on public facilities and utilities that serve or are proposed to serve the area.
There are no public facilities or utilities required for this proposed use.
2. The use will be sufficiently compatible with, or separated by sufficient distance from, or screened from adjacent agricultural or residential land uses so that there will be no deterrence to the use or development of adjacent land and uses.
The use is allowed in the Hamlet Mixed Use Overlay District through a Conditional Use Permit. The site abuts wooded areas on it's south, west and east borders, and has a wooded treeline adjacent to the residence to the north.
3. Each structure or improvement is so designed and constructed that it is not unsightly in appearance to the extent that it will hinder the orderly and harmonious development of the district wherein proposed.
The structure has existed as a commercial business since the 1980's and the applicants are proposing to make some cosmetic improvements to the building.
4. The use is consistent with the purposes of the Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

The use is consistent with the uses allowed as a CUP in the HMU, Hamlet Mixed Use Overlay Zoning District.

5. The use is not in conflict with the Comprehensive Plan of Scott County.
The Comprehensive Plan created the Hamlet Mixed Use Overlay for hamlets including Blakeley that allow a mix of residential and small-scale commercial uses.
6. Adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion, provide adequate access to public roads, and provide sufficient on-site parking.
Access to the site will be from Union Trail, County Road 1, a paved county road.
7. Adequate water supply, individual sewage treatment system facilities, erosion control and stormwater management are provided in accordance with applicable standards.
The business utilizes an individual well and septic holding tanks. Similar to the previous brewery operation, this user will be required to have a pumping agreement for regular septic tank pumping.
8. All buildings/structures must meet the intent of the State Building Code and/or fire codes.
The applicants are working with the County Building Inspections Department to obtain all required permits and inspections to ensure correct occupancy.

Conditions of Approval:

1. This Conditional Use Permit (CUP) is issued to Union Trail LLC for the operation of a microbrewery, taproom, and private event space.
2. The business owner is to file with Scott County Zoning Administration in January of each year a statement indicating that the business use is operating according to the Certificate of Compliance.
3. If ownership changes the new owner shall contact the Blakeley Town Board and Scott County Zoning Administration to review the conditions of the CUP and any proposed operational changes.
4. The Blakeley Town Board may conduct an annual business review to ensure that it is in compliance with the CUP. The applicant shall pay an annual inspection fee, if and when the County adopts an inspection fee ordinance.
5. The business shall be operated according to the Project Narrative for 23436 Union Trail and the Tap Room floor plan for operation of a microbrewery, taproom, and private event space. Any changes to the proposed operations shall be reviewed for compliance to the CUP.
6. On-site parking shall be located along and to the south end of the building as indicated on the site plan; no parking shall be allowed on or along County Road 1 (Union Trail) or within the County Road right-of-way.
7. All lighting and signage shall comply with the Scott County Zoning Ordinance.
8. All structures utilized for the business shall meet the requirements of the MN State Building Code and the Scott County Building Official, and will require necessary building permits for compliance with required building occupancy.
9. The property shall be maintained in a neat and orderly manner at all times. No outside storage is allowed in the Hamlet Mixed Use Overlay Zoning District. Any junk, debris, or other solid waste shall be removed and properly disposed.
10. The business shall comply with all requirements set forth by Scott County Environmental Health pertaining to wastewater management, including obtaining and maintaining a pumping agreement with a licensed pumping contractor. Oil, solvents and hazardous wastes shall also be regulated through a hazardous waste license, if applicable.

**4.4 PUBLIC HEARING 8:05 PM: SHAKOPEE MDEWAKANTON SIOUX COMMUNITY (SMSC)
CONDITIONAL USE PERMIT (PL#2021-013) and Preliminary and Final Plat of Malkerson Addition**

- A. Conditional Use Permit (CUP) #PL2021-013 for the Shakopee Mdewakanton Sioux Community (SMSC) to construct and operate an Organics Recycling Facility.
- B. Preliminary Plat of Malkerson Addition consisting of 2 lots and 1 outlot on 221 acres.
- C. Final Plat of Malkerson Addition consisting of 2 lots and 1 outlot on 221 acres.

Location: Sections 16 & 21

Township: Louisville

Current Zoning: I-2, Heavy Industrial District

Marty Schmitz presented the staff report for this application and introduced Steve Albrecht SMSC representative for a further detail presentation. The specific details within the staff report and a video are available at the Scott County Website link: [June 12, 2023 Planning Advisory Commission Agenda Packet](#). The staff report can be found in the full agenda packet located by clicking Planning Advisory Commission.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Planning Advisory Commission.

Commissioner Comments and Questions:

Commissioner Hussain asked if it would be possible to tour a facility like what is being proposed.

Mr. Albrecht responded there is a similar style facility in Pope/Douglas County which gives tours and once the SMSC facility opens they will be conducting tours as well.

Commissioner Robbins commented how impressed he is with the amount of detail and planning the SMSC has put into this project. Commissioner Robbins asked about the products made from compost and where they market these products.

Mr. Albrecht explained they will have wood mulch products and the compost can be mixed with soil to create products with organic compounds to be added to the ground. Mr. Albrecht expressed their intention is to source and outsource locally. An example of where the products would be used is shoulder restoration on road construction projects. Mr. Albrecht responded that they have provided products as far as Iowa but primary their goal is marketing to buyers in Scott County and outward.

Commissioner Picha asked where the sand and gravel ground contents are coming from that they are mixing the compost with.

Mr. Albrecht explained the material comes from local suppliers and projects, if there is a construction project nearby with excess black dirt, they take initiative and bring the soil back to their facility without having to truck them all over.

Commissioner Huber questioned the holding ponds with the sandy soil.

Mr. Albrecht explained all surfaces are paved and everything else is lined as they need to retain the water on their facility.

Commissioner Hentges questioned what will happen with the previous facility.

Mr. Albrecht responded they are taking down all buildings and moving what they need too to the new facility and the previous location will be converted into a bison sanctuary.

Chair Vonhof asked what will be happening with the buildings of the original facility.

Mr. Albrecht explained they took down the old buildings and will keep some buildings for the bison facility.

Commissioner Robbins questioned if people are to be bringing wood for drop off at the new facility.

Mr. Albrecht responded there will be no construction debris or hazardous materials brought to this facility.

Chair Vonhof verbally opened the public hearing.

Public Comments and Questions at the Podium

Cherl Doucette, Clerk of Louisville Township and resident, questioned the outcome for leasing the outlot to the Renaissance Festival and if there should be conditions for permitted use.

Mr. Schmitz explained the outlot has historic been use by the Renaissance Festival and if there was something new moved into that area they would need to go through the conditional use permit process before anything could be done.

Chair Vonhof asked for a motion to close the meeting.

Motion by Commissioner Robbins to close the public hearing; second by Commissioner Hentges. The motion carried unanimously.

Motion by Commissioner Watson; second by Commissioner Hentges, based on the criteria for approval listed in the staff report, I recommend approval of the Preliminary and Final Plat of Malkerson Addition and the Conditional Use Permit for the SMSC ORF, noting that this recommendation is subject to the conditions listed in the staff report that must be satisfactorily addressed prior to County Board consideration.

Chair Vonhof called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye
Commissioner Picha: Aye
Commissioner Robbins: Aye
Commissioner Huber: Aye
Commissioner Vonhof: Aye
Commissioner Hentges: Aye
Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

Criteria for Plat Approval:

1. *Adequate Drainage* – the proposed plat meets all storm water drainage requirements as identified in Chapter 6 of the zoning ordinance. The stormwater plan for Lot 1 has been designed to reuse much of the stormwater collected on-site.
2. *Adequate Potable Water Supply* – The plat/use do not require municipal services. The plat, utilizing individual wells, meets the requirements of the zoning and subdivision ordinances.
3. *Adequate Roads or Highways to Serve the Subdivision* – Adequate measures have been taken to provide ingress and egress, access to the plat is via the private drive. Because the private drive services other properties and is in a location where it could become a public road in the future, the Developers Agreement will include language that allows the access drive to become a public road in the future if/when there is a public need. To improve access to the site the SMSC proposes to make intersection improvements on Highway 41, including construction of turn and by-pass lanes prior to completion of the project. These improvements on Highway 41 will be done through a cooperative agreement with MNDOT. These improvement will provide storage capacity for vehicles accessing the project area and minimize delay by separating the turning and through movements on Highway 41.
4. *Adequate Waste Disposal Systems* – the proposed lots will meet all requirements of the individual sewage treatment system ordinance prior to County Board consideration.
5. *Consistency with the Comprehensive Plan* – the proposed plat conforms to the goals and policies contained in the 2040 Comprehensive Plan for the development in the Industrial Area.
6. *Public Service Capacity* – The proposed plat/use do not create an excessive burden on public facilities. Access to the site is from an existing private drive. The Developers Agreement will include language that allows the access drive to become a public road in the future if/when there is a public need. Until then it will remain a private access drive maintained by the SMSC. To improve access to their properties, the SMSC proposes to make intersection improvements, including construction of turn and by-pass lanes on Highway 41 prior to completion of the project.
7. *Consistency with the Minnesota Environmental Quality Board's Policies*- the SMSC prepared the EAW and submitted it to the MPCA in February 2021, with regulatory agency review and a mandatory 30 day public comment period ending March 23, 2023. On April 18, 2023, the MPCA Commissioner determined that the project does not have the potential for significant environmental effects.
8. *Consistency with Capital Improvement Plans* – To improve access to the site, the SMSC proposes to make intersection improvements on Highway 41, including construction of turn and by-pass lanes prior to completion of the project. These improvements on Highway 41 will be done through a cooperative agreement with MNDOT. These improvements will provide storage capacity for vehicles accessing the project area and minimize delay by separating the turning and through movements on Highway 41.

Criteria for CUP Approval:

1. The proposed use does not create an excessive burden on public facilities. The proposed use does not require public utilities. Access to the site is from an existing private drive. The Developers Agreement will include language that allow the access drive to become a public road in the future if/when there is a public need. Until then it will remain a private access drive maintained by the SMSC. To improve access to their properties, the SMSC proposes to make intersection improvements, including construction of turn and by-pass lanes on Highway 41 prior to completion of the project.
2. The proposed use is compatible with industrial uses on adjacent lots. The ORF site is separated from adjacent land uses by Gifford Lake and the Minnesota River on the west, railroad tracks, a landfill and the MN DOT maintenance building on the east. Also, the grade difference between the railroad and the low point of this property provides a buffer.
3. New structures on the site will be designed and constructed to comply with County Ordinance. Building permits will be required for all structures at the ORF. All new building exteriors and roofs will have a design finish such as CORTEN steel that will not hinder orderly and harmonious development in the I-2 Zoning District.
4. The use is consistent with the purpose of the I-2 Zoning District.
5. The use is not in conflict with the Scott County 2040 Comprehensive Plan. The property is designated industrial in the Comprehensive Plan. The proposed use is consistent with the uses in the industrial district.
6. Adequate measures have been taken to provide ingress and egress, access to the site is via the private drive. To improve access to the site, the SMSC proposes to make intersection improvements on Highway 41, including construction of turn and by-pass lanes prior to completion of the project. These improvements on Highway 41 will be done through a cooperative agreement with MNDOT. These improvements will provide storage capacity for vehicles accessing the project area and minimize delay by separating the turning and through movements on Highway 41 existing.
7. Adequate water supply, sewage treatment systems, erosion control and storm water facilities have been approved by the MPCA & County Staff. The use does not require municipal services, nor is a high water user. The stormwater system has been designed to reuse much of the stormwater collected on-site. The site will operate under a MPCA Industrial Stormwater Permit and DNR Water Appropriations Permit is required for a new well on to serve the facility.
8. All buildings are designed to meet applicable building and fire codes. Building permits are required for all structures at the facility.

Conditions for Approval:

1. This Conditional Use Permit (CUP) is specifically issued to the Shakopee Mdewakanton Sioux Community, applicant, to construct and operate an Organics Recycling Facility as described in the application narrative.
2. Applicant is to file with Scott County Zoning Administration in January of each year a statement stating that they are in compliance with the conditions of the CUP. Failure to do so may be a basis for revocation of the permit.
3. If the Property is sold, the new operator shall contact Scott County Zoning Administration and the Louisville Town Board to determine if the CUP needs to be updated or amended due to any operational changes.
4. The Louisville Town Board may conduct an annual review of the business to ensure that they are in compliance with the CUP conditions.
5. Applicant shall pay an annual inspection fee for the CUP, if and when the County adopts an inspection fee ordinance.
6. Applicant shall comply with all applicable current and future federal, state, County, City and Township laws, ordinances, rules, regulations, licenses and permits including, but not limited to, those of the Minnesota Pollution Control Agency (MPCA), Department of Natural Resources (DNR), County, Township and other regulations applicable to operations at the organic recycling facility.
7. Applicant's organic recycling facility operations shall comply with the environmental review documents, CUP applications, permits, plans and application narrative collectively referred to collectively as the "Approved Plans" which are all on file with the County and incorporated herein by reference. Applicant shall have the right to request modifications, as appropriate, to this CUP including, but not limited to, modifications to the Approved Plans and the application narrative via amendment of this CUP. If the

Approved Plans vary from the written terms of this CUP, the CUP shall control. The "Approved Plans" are as follows:

- a. Shakopee Mdewakanton Sioux Community Plans for Organic Recycling Facility prepared by Bolton and Menk and dated February 17, 2023 containing 170 pages
- b. Narrative submitted on March 1, 2023 containing 2 pages
- c. Nuisance Mitigation Plan submitted on March 1, 2023 containing 2 pages
- d. Building Architectural Plans submitted on March 1, 2023 containing 2 pages
- e. Resource Management Plan prepared by Bolton and Menk and dated May 30, 2023 containing 235 pages
- f. Minnesota Pollution Control Agency's (MPCA) solid waste facility permit
- g. MPCA's Industrial Stormwater Permit
- h. MPCA's Air Permit
- i. Scott County's Solid Waste Permit
- j. Developer's Agreement dated _____, 2023

The Applicant shall obtain all required permits from the state including but not limited to the permits referenced above unless otherwise agreed in writing by the County.

8. Applicant shall enter into a Developer's Agreement with the County and the Township that shall address obligations including, but not limited to construction of stormwater infrastructure, installation of landscaping, dedication of the existing private access drive to become a public road in the future if/when there is a public need, and payment of County and Township's undisputed and reasonable costs and expenses.
9. Access to the site is from an existing private access drive. The Developers Agreement for Malkerson Addition Plat shall include language acceptable to the Township that allows the existing private access drive to become a public road in the future if/when there is a public need. Until then it will remain a private access drive maintained by the Applicant at its sole expense.
10. Applicant shall enter into a Stormwater Management Agreement with the Township as approved by the Township Engineer and Township Attorney.
11. The Approved Plans call for a cross access easement maintenance agreement for a shared access for the lots within the Plat of Malkerson Addition as well as other properties that currently access the private drive to access County Road 41 (Chestnut Boulevard). The agreement shall be submitted to the County and the Township for review and approval by Town Attorney. The approved agreement shall be recorded by Applicant against all impacted properties. The agreement shall provide for ongoing maintenance obligations and cost-sharing and shall acknowledge any provisions in the Development Agreement related to the future possibility of this becoming a public road.
12. Hours of operation shall only occur between 6:00 a.m. through 9:00 p.m. unless otherwise agreed to in writing by the County.
13. Operation of the ORF shall be according to the approved MPCA Solid Waste Facility Permit, Industrial Stormwater Permit and Air Permit. Failure to obtain, maintain or comply with MPCA permits shall be grounds for termination of the CUP.
14. Applicant shall obtain and comply with Scott County Solid Waste Permit including the provision of any required financial security in a form acceptable to the County. Failure to obtain, maintain or comply with Scott County Solid Waste Permit shall be grounds for termination of the CUP.
15. Applicant shall provide to the County a copy of any reports or other documents required to be submitted as part of their MPCA permits.
16. The Property shall be maintained in a neat and orderly manner.
17. Applicant shall follow its Nuisance Mitigation Plan for controlling air pollution, dust, odors, noise, bulk liquid storage, hazardous materials, and solid waste and keep operations within state guidelines and permits.
18. In the event that the County or Township receive complaints related to nuisances whether addressed or not in the Nuisance Mitigation Plan produced by the organic recycling facility, Applicant shall be immediately notified. If the County or Township reasonably believes that the complaint is valid, then the Applicant shall take reasonable measures to mitigate and remove the source of the nuisance including but not limited to adjustment of operations of the facility.

19. Landscaping and screening shall be installed according to the Approved Plans. The Applicant shall provide the County with a landscaping financial guarantee to ensure compliance with the landscaping plans.
20. All signage shall comply with the Scott County Sign Ordinance.
21. Lighting shall comply with the standards in the Scott County Zoning Ordinance.
22. The organic recycling facility operations shall be available for inspections by authorized County and Township inspectors within normal company working hours upon reasonable advance notice to the Applicant.

Conditions to be Satisfied Prior to County Board Consideration of the Final Plat:

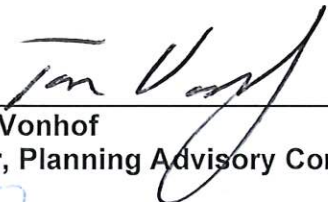
1. A Three-Way Development Agreement shall be prepared.
2. Submittal of required title work and review by the County Attorney.
3. Payment of all Louisville Township and Scott County Final Plat fees.

V. PLANNING MANAGER UPDATE PRESENTED BY BRAD DAVIS

Peggy Dunnette, Sand Creek Township resident, asked to approach the podium to make comment. Ms. Dunnette wished to express her appreciation of Valley View Drive along the MN Valley Wildlife Refuge and is concerned with industrial projects coming to the area. Ms. Dunnette explained this area is in the Natural Corridor Area which County stipulates need to be respected. Ms. Dunnette further explained this area was scoured out by glaciers and anything that hits the surface goes into the aquifer a lot more quickly than normal ground soils. Ms. Dunnette is asking the Planning Commission to keep in mind the simple beauty of this area when projects come to the Board for its approval.

VII. GENERAL & ADJOURN

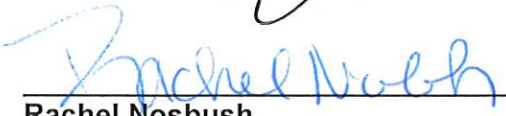
Motion by Commissioner Robbins; second by Commissioner Hentges to adjourn the meeting at 8:50 PM. The motion carried unanimously.



Tom Vonhof
Chair, Planning Advisory Commission



Date



Rachel Nosbush
Deputy Clerk to the Board



Date

