

OATH OF OFFICE

Deputy Clerk Etzel administered the Oath of Office to commissioners: Karen Fuller and Mike Werman. Both commissioner's term will be for three years and will expire on December 31, 2015.

CALL TO ORDER

Chair Buoy called the regular meeting of the City of Rockford Planning and Zoning Commission to order on **January 10, 2013** at 7:01 p.m. The meeting was held in the Council Chambers of City Hall, 6031 Main Street, Rockford, MN.

ROLL CALL

Roll call was taken and the following members were present: Buoy, Fuller, and Werman. The following members were absent: Petersen-Biorn. Also in attendance were Planner Dan Licht, Deputy Clerk Etzel and Council Member Martinson.

ELECTION OF OFFICERS FOR 2013

MOTION was made by Fuller, seconded by Werman to elect Deb Buoy as Chairperson of the Planning and Zoning Commission for 2013.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, and WERMAN.

MOTION was made by Buoy, seconded by Fuller to elect Werman as Vice Chairperson of the Planning and Zoning Commission for 2013.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, and WERMAN.

PUBLIC HEARING-AMEND ZONING ORDINANCE 1001.09 TO ALLOW SOLAR EQUIPMENT and CONDITIONAL USE PERMIT FOR SOLAR EQUIPMENT for 6800 ELECTRIC DRIVE

The City is in receipt of an application for an Ordinance Amendment to allow Solar Equipment and a Conditional Use Permit for Solar Equipment at 6800 Electric Drive. The property is zoned I-1 Industrial. Staff published notice in the official newspaper at least 10 day prior to the public hearing and mailed notice to all affected property owners within 350' as required.

Wayne Bauernschmitt from Wright-Hennepin Cooperative Electric Association of 6800 Electric Drive was present to speak about the proposed project. He stated earlier this summer W-H contacted their members to see if they would be interested in participating in renewable projects. The members were interested in the solar array project and the concept was received well.

According to the W/H's fact sheet, they are 80% vested and as of today they are fully vest in the first phase of the proposed project.

They plan to build the project in three phases, the first being 32kw. Solar output would be brought in to a couple of small cabinets, accumulating the energy and store it in a battery bank and deploying during peak times. The solar panels are like the demos they have out front of their building. Phase 1 will be 60 x 80 in the NW corner of their property. From the setbacks noted, W-H is staying well within their property.

Planner Licht stated W-H contacted the city and meet with staff. They are proposing to construct a solar energy system on their corporate campus located at 6800 Electric Drive. This project is similar to the Wind Energy Conversion System (WECA) erected on the property in 2007. The solar energy system consists of the solar arrays with an area of 14,441 square feet and up to six utility cabinets to be located in the NW corner of the property.

The subject site is zoned I-1, Industrial District. The zoning ordinance currently does not allow for solar energy systems. As such, W-H is first requesting a text amendment to make allowance for accessory solar energy systems and second, they are requesting approval to construct the solar energy system as proposed on the subject site.

With growing interest in alternative energy systems, as well as a State mandate for energy providers to utilize alternative energy sources, this is the basis for W-H's proposal to construct the solar energy system on their corporate campus.

The solar energy systems would be required to be accessory to an allowed principal use. Solar energy systems mounted on the principal building or another accessory structure would be a permitted as an accessory use, whereas a freestanding solar energy system would require approval of a conditional use permit. Additional standards included in the draft Zoning Ordinance amendment include:

- Compliance with applicable electrical standards including grounding requirement and installation of underground service lines.
- Limitations on the area of ground mounted systems of 120 square feet for residential uses and five percent of the lot area for non-residential uses.
- Use of colored panels the same or similar for roofing materials for roof mounted systems.
- Roof mounted systems may not exceed the height requirements of the applicable zoning district and also cannot exceed beyond the perimeter walls of the structure to which attached.
- Ground mounted systems are not allowed in the C-O, Central Business District and must be located only in rear yards in residential districts. Setbacks for the solar energy system include the applicable front yard requirements for the applicable zoning district, a 10 foot side and rear yard setback. Solar energy systems may not encroach within drainage and utility easements.
- Screening from residential zoning districts is required by only to the extent that such screening will not interfere with operation of the solar energy system.
- Inoperable systems are to be removed after 12 months of non-use.

The following comments relate to the proposed solar energy system to be installed on the subject site:

- The proposed solar energy system is to be ground mounted requiring consideration of a conditional use permit.
- The proposed solar energy system is to be installed in three phases although no time frame for the installation of phases 2 and 3 has been detailed.

The Phase 1 solar array is located at the northwest corner of the proposed solar energy system with an area of 4,665 square feet. A second 4,665 square foot solar array would be installed to the east of Phase 1 doubling the area of the solar energy system to 9,330

square feet. A third and final phase of a 5,111 square foot solar array would be added along the south edge of phases 1 and 2 bringing the total area of the solar energy system to 14,441 square feet.

City staff recommends that the conditional use permit would be approved for the entire 14,441 square foot solar array and six utility cabinets as shown on the submitted site plan. Subject to the abandonment provision included in the draft Zoning Ordinance amendment, Wright-Hennepin would be allowed to determine the phasing schedule.

The 14,441 square foot area is approximately one percent of the area of the 32.19 acre subject site, which complies with the area limits of the draft Zoning Ordinance amendment.

- The proposed solar energy system is located at the northwest corner of the property. The location of the solar array is setback 75 feet from Haug Avenue and 95 feet from the north property line exceeding the setback requirements of the draft Zoning Ordinance amendment.
- The proposed solar array is on the south facing slope of a hill on the subject site to maximize its Sun exposure. The location of the proposed solar array is also intended to be visible from TH 55 consistent with the demonstration element of the project, but orientation the slope also minimizes the view of the solar energy system from surrounding residential uses located in Rockford Township. Existing vegetation to the west and along the north property line of the subject site further screens the solar array without interfering with its operation.
- The height of the solar array above grade is not specified in the submitted plans. However, the I-1 District allows a maximum structure height of four stories which is sufficient to accommodate either of the two solar array systems under consideration.

The request from Wright-Hennepin for consideration to allow installation of a solar energy system on their corporate campus reflects (and is intended to encourage) interest in the use of alternative energy systems. City staff has drafted language to make allowance for solar energy systems on all properties within the City so as to accommodate interest in alternative energy systems in a manner compatible with principal uses and surrounding properties. Specific to the application for installation of a solar energy system on the Wright-Hennepin corporate campus, the proposed system would exceed the minimum standards for ground mounted systems and has been located with attention to maximizing the system's function and visibility and minimizing impacts to adjacent properties. To this end, City staff recommends approval of the draft Zoning Ordinance amendment as well as installation of the solar energy system on the Wright Hennepin campus to be subject to the following:

1. The solar energy system shall comply with all applicable electrical standards required by Section 1001.09, Subd. 21.B.2.a of the Zoning Ordinance, shall comply to the requirements of the Building Code and shall be certified by Underwriters Laboratories, Inc.
2. The solar energy system shall comply with the height limits of the I-1 District.
3. The property owner may install the 14,441 square foot solar array and utility cabinets in phases subject only to the provision that if the solar energy system is inoperable for a period of twelve (12) months is shall be required to be removed.

4. The property owner shall obtain a building permit prior to installation of the solar energy system if required by the Building Code.

The Planning Commission reviewed the conditional use application to make sure that it complies with Conditional Use standards per ordinance section 1001.03 Subd. 5.

Chair Buoy opened the hearing to public comments at 7:11 pm.

No one from the public spoke.

Chair Buoy closed the public hearing at 7:12 p.m.

Commissioner Werman asked if there were any safety concerns if the battery over loaded/can it happen? Rob Nicula, the Vice President of W-H Power Supply stated there are safety devices in place. The State electrical approvals, safety devices are in place to trip a breaker or open a circuit if any problems occur. The batteries only run about 100 hours in a year during critical peak times.

Bauernschmitt noted they will obtain the proper permits from the State for the electrical portion of the project.

Commissioner Buoy asked if the planner if he has seen these systems in other communities. Planner Licht has not, but used the wind energy ordinance.

MOTION was made by Fuller, seconded by Werman to recommend amending the zoning ordinance to include Solar Equipment.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, AND WERMAN

MOTION was made by Werman, seconded by Fuller to recommend approval of the Conditional Use Permit for Solar Energy Equipment at 6800 Electric Drive with the following conditions.

1. The solar energy system shall comply with all applicable electrical standards required by Section 1001.09, Subd. 21, B, 2. a. of the Zoning Ordinance, shall comply to the requirements of the Building Code and shall be certified by Underwriters Laboratories, Inc.
2. The solar energy system shall comply with the height limits of the I-1 District.
3. The property owner may install the 14,441 square foot solar array and utility cabinets in phases subject only to the provision that if the solar energy system is inoperable for a period of twelve (12) months it shall be required to be removed.
4. The property owner shall obtain a building permit prior to installation of the solar energy system if required by Building Code.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, AND WERMAN

The recommendations from the Planning Commission will be submitted to the City Council at their January 22, 2013 regular meeting for final approval or denial.

***CONSENT AGENDA/SET AGENDA**

MOTION was made by Buoy, seconded by Werman to approve all items on the consent agenda.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, AND WERMAN

***Approve Regular Planning and Zoning Minutes/September 27, 2012**

MOTION was made by Buoy, seconded by Werman to approve the minutes of the September 27, 2012 Regular Planning and Zoning Meeting.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, AND WERMAN

OPEN FORUM

Chair Buoy called for open forum, no one from the public spoke.

Recommend Planning and Zoning Commissioner

MOTION was made by Fuller, seconded by Werman to recommend appointing Shannon Sand to fill the vacant Planning and Zoning Commission position expiring on December 31, 2013.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, AND WERMAN

Deputy Clerk's Report

The Deputy Clerk's report included: next Visioning Session February 5th, free Planning 101 class on January 26th, Mayor and Council were sworn in on January 8th and Planning & Zoning Commission dates.

Reviewed Ordinance #1001.09 Add'l Requirements, Exceptions, and Modifications

Planner Dan Licht reviewed questions submitted by staff and planning commission regarding zoning ordinance #1001.09:

The Planning Commission is reviewing the Zoning Ordinance for possible updates. At their meeting on 24 May 2012, the Planning Commission reviewed Section 1001.09 Additional Modifications, Exceptions and Modifications and forwarded a list of questions for response. *Planner Licht offer the following comments:*

1. Subd. 1.B – 100 (what - feet, inches, yards?)
Comment: We would recommend that the provision be amended to specify that the height limits may be increased by 100 percent, doubling the allowed height for principal structures.
2. Subd. 1.C.3 – should radio and television towers be changed to communication towers or added? What would be the correct language?
Comment: The section should be updated to include standards specific to cellular towers and equipment due to how each use is regulated by the Federal Government. Cellular service antennas are considered to be virtual essential service and the City has limited ability to regulate them. This section should also be modified to allow for TV, radio and other communication uses as interim uses while providing a process by which equipment may change out without approval of an amendment.
3. Subd. 1.E.6. – The building official must approve building plans for all the items

listed. Staff has not received a building permit for the items listed – is this needed?

Comment: The intent of requiring approval by the Building Official is to ensure these antennas are properly installed so as not to come unattached and cause damage to adjacent properties. However, most communities do not require review of antenna installations as the size of the equipment has become much smaller. Based on the change in technology and the lack of review in the past, we recommend deleting this requirement.

4. Subd. 2.A.5 – City Thoroughfare Guild Plan – what is this?

Comment: The provision should be amended to reference the “Comprehensive Plan”, which includes the transportation plan chapter.

5. Subd. 2.B – is this needed?

Comment: The provision is not regulated as wall, fence or hedges are either not regulated or regulated in other Section by the Zoning Ordinance.

6. Subd. 2, D – The required front yard... (should this be set-back instead of front yard)?

Comment: Required yard refers to the area between the property line and the setback line and its use is appropriate in this section. However, we would recommend that this provision be amended to establish a requirement for a traffic visibility triangle to protect visibility at intersections but without placing restrictions on the entire yard abutting a public street.

7. Subd. 2, E - ...one-half of the width of the alley... (how does this apply)?

Comment: The provision allows one-half of the width of an alley to be used in measuring setbacks and would appear to be intended to accommodate detached garages. We recommend modifying the provision to provide a more specific setback requirement for principal buildings or detached accessory buildings from alleys that will be more easily understood.

8. Subd. 2.F.2.c.3 – buffer yard overlays shall each be responsible for 50% - Is this all zoning districts and when would this apply?

Comment: The buffer yard requirements apply when two uses of different intensities abut one another such as a single family lot abutting an industrial lot. The 50% installation provision applies in situation where two abutting parcels are undeveloped and each side of the property line is responsible for installing the required buffer yard on the respective property. In cases where a more intense use abuts a developed property, the buffer yard must be installed entirely on the undeveloped property.

9. Subd. 2.F.8 – is this linked to ordinance Subd. 2, F, 2 c, 3 - how it applies?

Comment: This provision applies to properties developed prior to adoption of the buffer yard requirements and mandates installation of 50 percent of the required buffer yard upon any substantial improvement or alteration of the site.

10. Subd. 3.B.2.d.3 – 2:1 (should this be 2:1?)

Comment: Yes.

11. Subd. 5. A – which lots are subjected to the 70% or does B. with the date of June 1, 1989 apply. Not sure which lots qualify for the 70% provision.

Comment: Section A is stating the intent of this section, whereas Section B states to which lot the provision applies, which is lots of record existing on June 1, 1989. This provision would be most applicable to the older areas of Rockford that have lots smaller than those required by the R-1 District. Both sections could be clarified by removing the regulation language referencing the effective

date and 70 percent provision from Section A and stating these as criteria in Section B.

Additional Comments:

Subd. 7 – Contiguous Lots: *The City cannot regulate the administrative combination of two abutting parcels when each exists as a lot of record except within the Shoreland District. We recommend this section be removed and included with the non-conforming lot provisions section and limited only to the Shoreland District.*

The Planning Commission is reviewing the Zoning Ordinance for possible updates. At their meeting on July 12, 2012, the Planning Commission reviewed Section 1001.09 Additional Modifications, Exceptions and Modifications (Subd. 8 to Subd. 13) and forwarded a list of questions for response. *Planner Licht offer the following comments:*

12. Subd. 8.E.1 – Add “or at the owners expense”.
Comment: We agree.
13. Subd. 8.E.1 – Is it correct that water is to be directed to sanitary sewer and how would this be accomplished.
Comment: Water in a swimming pool is likely to have been chemically treated and is thus required to be drained to the sanitary sewer system.
14. Subd. 10.C. – Is this water going into the storm sewer? Is this ok?
Comment: The provision should be modified to require discharge to the sanitary sewer system as noted above.
15. Subd. 11.A – City staff recommends adding: The fence placement, size and style must be reviewed by the Zoning Administrator before installment. The Planning Commission agreed with staff’s recommendation.
Comment: We agree.
16. Subd. 11.B – City staff recommends adding: 4. All fences require approval from the Zoning Administrator before installation. The Planning Commission agreed with staff’s recommendation.
Comment: We agree.
17. Subd. 11.F – Planning Commission would like to add: 4. Front Yard – not allowed. Ask the Planner about double frontage lots – what would be the correct language?
Comment: We agree and recommend the following language:
4. Required Front Yards and Side Yards of Corner Lots:
 - a. Fences extending across required front yards or a required side yard that abuts a street on a corner lot shall not exceed forty-eight (48) inches in height and shall be at least seventy-five (75) percent open space for the passage of air and light.
 - b. A fence with a height greater than forty-eight (48) inches and/or less than seventy-five (75) percent open space may be constructed within the required rear yards and side yard of a corner lot abutting collector or arterial street by administrative permit, provided that:
 - (1) The fence does not exceed six (6) feet in height.
 - (2) The fence is setback ten (10) feet from the lot line abutting a collector or arterial street right-of-way.
 - (3) For interior lots, a gate or other opening is to be provided in the fence to allow for maintenance of the street side boulevard.

(4) The fence along a side lot line abutting a collector or arterial street right-of-way shall not extend into a required front yard and be no closer to the front lot line than a point intersecting the front line of the principal building.

18. 11.F – City staff recommends adding: 5. The City is not responsible for enforcing covenants. Verify this is the correct language.
Comment: Existing language in Section 1001.01, Subd. 3 addresses this but could be clarified:
- Subd. 3. Private Agreements.** *This chapter does not abrogate any easement, covenant, or any other private agreement where such is legally enforceable but which shall not be enforced by the City; provided, that where the regulations of this chapter are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this chapter shall be controlling.*
19. Subd.12.B.2 – City staff recommends DELETING C-1 (no longer a zoning district) and ADDING POC. The Planning Commission agreed with staff’s recommendation.
Comment: We agree.
20. Subd. 13.B and C – is 33 KV the correct language? Also, the Zoning Administrator and Public Works have signed off in the past – not City Council.
Comment: The reference to 33KV is correct in regards to Statutory language allowing the City to review these installations. We agree that this section should be modified to make installation of services at less than 33KV an administrative process.
21. Subd. 13.4.2 – City staff does not always forward to the City Engineer for smaller projects. Should the language be changed?
Comment: These services should all be reviewed by the City Engineer and the City can require that the applicant installing the service pay all costs for the City Engineer’s review.
22. Subd. 13.E.1 and 2 – is the technology language correct and are applicable items covered?
Comment: Section E should be modified to reference the current Statutory language allowing the City to require a CUP for services between 33KV and up to 100KV. The current Zoning Ordinance states only that a CUP is required for services of 33KV or more.
23. Subd. 14 – Home Occupations: Revise section to more clearly define allowed home occupations, allow special home occupations as an interim use and remove the permit review requirement every three years.
24. Subd. 17.H.5 - Planning Commission felt the language was different from the planner’s recommendation listed below. Should it still be deleted?
Comments: Section 16 is established to regulate Model Homes and provision F states that it regulates real estate offices within model homes. The language is different but the requirements not repeated in Section 16 are unnecessary in our opinion.
25. Subd. 17, H., 5. – should it only be the R-1 District?
Comment: It would appear that the intent is to allow accessory apartments only within the R-1 District, which has a larger minimum lot size to accommodate what is effectively additional density. If this is the intent, then it should be stated in the first clause of Section H. The Planning Commission may want to consider adding performance standards to specifically address:

- *The lot must conform to the minimum lot area, lot width, setbacks and impervious surface requirements of the applicable Zoning District.*
- *Provision of adequate off-street parking space.*
- *Whether to require that open access be maintained between the main dwelling area and accessory apartment. If access is not required to be maintained then essentially the provisions are allowing a two family dwelling within any zoning district. Related to this issue is allowance of:*
 - *A separate exterior entrance.*
 - *Separate kitchen facilities.*

26. Subd. 19, B., 3. – can this be deleted?

Comment: This provision should be deleted as any non-conforming use is regulated by Section 1001.04 of the Zoning Ordinance.

Planner Licht stated the Zoning Ordinance is a working document. This ordinance was written around 1992, major updates were done in 1996 and 2002. Things change and it is good to review on an ongoing bases to update.

Planning Commission would like to review the draft ordinance at their next meeting before calling for a public hearing.

Adjournment

MOTION TO ADJOURN was made by Buoy, seconded by Fuller.

MOTION CARRIED – VOTING IN FAVOR – BUOY, FULLER, and WERMAN

Chair Buoy adjourned the meeting at 7:53 p.m.

Submitted by Audra Etzel, Deputy Clerk