



Legislation Text

File #: Res. 2021-040, **Version:** 1

City Council Meeting Date: May 4, 2021

To: Mayor and City Council
City Administrator

From: Mikayla Schmidt, City Planner

Conditional Use Permit for 1MW Community Solar Garden for DivoCSG 17 LLC.

Action Requested:

The City Council is asked to consider the proposal and take action on a Conditional Use Permit application from DivoCSG 17 LLC for a 1MW Community Solar Garden.

Summary Report:

The Community Development Department received a proposal from DivoCSG 17 LLC for a community solar garden (CSG) Conditional Use Permit (CUP) to permit a one-Megawatt Alternate Current photovoltaic system in the Agricultural Zoning District (A-S). The site is located at PID 43-02700-50-030, north of Highway 19/330th St. W. and west of Decker Ave. in Dakota County. DivoCSG 17 LLC will consist of approximately 3744 solar panels on roughly 8 acres of land as part of a 32.37 acre parcel of land owned by Michael and Eileen Tste Devney. The CSG will have a service period of 25-35 years.

The Planning Commission (PC) was asked to consider the proposal and provide a recommendation to City Council. The PC approved the CUP, unanimously (with one member absent), with the conditions recommended by staff, which are in the resolution and supported by the findings.

Conditional Use Permit Analysis:

The site is currently located in the A-S Agricultural zoning district. The proposed project is allowed as a Conditional Use according to Table 2.7-1: Permitted Principal Uses. A CUP follows the Type 4 Review Procedure found in Section 8.5.9 of the LDC. When reviewing a CUP, the Planning Commission and City Council are to consider the criteria below, **in bold text**. Staff suggested findings are provided after the criteria, in regular text.

a) The proposed use is allowed as a conditional use in the district for which it is proposed.

A Community Solar Garden is allowed as a conditional use in the A-S zone district according to Table 2.7-1 of the Land Development Code.

b) The conditional use will be in accordance with the general objectives, or with any specific objective, of the city's comprehensive plan and this LDC.

The conditional use is in compliance with the Comprehensive Plan. Map 4.3 Conservation and Development designates the project area for managed growth, which are areas that are supportive of mixed-use development. The Comprehensive Plan context zone designation for this site is “District” and “Areas potentially not meeting sanitary sewer and water level of service”. “District” is defined as a special use area composed of large business or industrial structures. The Comprehensive Plan states that no change in character is anticipated in “District” areas with respect to future development.

In the Policy and Planning section of the Northfield Climate Action Plan, a portion is dedicated to Renewable Energy. Policy and Planning (PP) 3.2 identifies the need to “Establish an in-boundary goal to generate the equivalent of 10% of the City’s electricity from rooftop and ground-mount solar installations by 2030”.

In the Comprehensive Plan, Environmental Resources Strategy 10 indicates the City will remain responsive to issues of climate change and will act to reduce Northfield’s contribution to climate change. Specifically, ER 10.3 is to "promote the reduction of greenhouse gas emissions at residential, industrial and commercial scales".

The proposal meets the Site Development Standards for the Agricultural Zone District as defined in Article 3 of the LDC and the Use Specific Standards found in Article 2 and is subject to final site plan review by city staff.

- c) **The conditional use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.**

The DivoCSG 17 LLC project is appropriate with the general vicinity with the addition of conditions. Several conditions of approval are recommended to ensure the project compliances with policies, and to mitigate potential adverse impacts so the project will be harmonious with the surrounding area.

Staff is recommending:

1. New power lines installed to serve the site shall be underground other than the main feeder onto the property to the greatest extent possible and in conjunction with electric utility approval.
2. Fencing shall be of a design capable of allowing small animals access in and out of the fenced CSG.
3. An interior setback of 50 feet shall be met.
4. The project must incorporate a 50-foot wildlife corridor on the west and east side of the CSG to provide a north/south access for wildlife away from Highway 19.
5. Native bushes and trees shall be planted along the exterior and interior of the site (outside the fenced CSG).
6. A cover crop inside the footprint of the CSG and wildlife corridors will be planted and maintained with a combination of low growth native crops and a seed mix that promotes pollinator friendly habitats.

- d) **The conditional use will not be hazardous or reasonably disturbing to existing or future uses.**

The project is not anticipated to be hazardous or reasonably disturbing to existing or future uses with the addition of the conditions recommended by staff:

1. New power lines installed to serve the site shall be underground other than the main feeder onto the property to the greatest extent possible and in conjunction with electric utility approval.
2. Fencing shall be of a design capable of allowing small animals access in and out of the fenced CSG.
3. An interior setback of 50 feet shall be met.
4. The project must incorporate a 50-foot wildlife corridor on the west and east side of the CSG to provide a north/south access for wildlife away from Highway 19.
5. Native bushes and trees shall be planted along the exterior and interior of the site (outside the fenced CSG).
6. A cover crop inside the footprint of the CSG and wildlife corridors will be planted and maintained with a combination of low growth native crops and a seed mix that promotes pollinator friendly habitats.
7. This project is subject to other City approvals pursuant to City Code, including but not limited to site plan, grading and stormwater management approval, which could result in additional required project modifications.

These additional conditions support a future natural greenway corridor as depicted on the Northfield Planned Walking and Bicycling Network of the City of Northfield Pedestrian, Bike, and Trail System report from April 2019 completed by Toole Design. The conversion of agricultural land use to a native grass/pollinator friendly mix will provide better habitat for pollinators and grassland birds native to the area.

A change to another land use can occur after the Project is removed at the end of the Project's useful life. The Project is not anticipated to preclude current or planned land use on any adjacent parcel.

A National Pollutant Discharge Elimination System permit application to discharge stormwater from construction will be acquired from the Minnesota Pollution Control Agency. Best Management Practices will be used during construction and operation of the Project to protect topsoil and adjacent resources and to minimize soil erosion, whether the erosion is caused by water or wind. A Stormwater Pollution Prevention Plan will be developed for the Project.

No noise other than typical transformer humming would be present onsite. The system will be enclosed within an 8-foot agricultural/deer fence (providing access for small animals to access in and out of the CSG) to minimize the visual impact and restrict access to the system from unqualified personnel as well as prevent larger animals from jumping the fence.

e) The conditional use will be served adequately by essential public facilities and services such as streets, police and fire protection, drainage structures, refuse disposal, water and sewer.

The property is served by nearby electric/power utilities adequate for the proposed use. Limited essential public services (police and fire protection) will be necessary for construction and operation of the Project. The applicant shall coordinate with adjacent CSG applicants to create as few shared access points to the project areas as possible, thereby ensuring proper access by the applicant, the applicant's employees, emergency personnel and minimizing adverse traffic effects on Highway 19.

f) The benefits of the conditional use outweigh the potential negative effects of the surrounding community.

The CSG, if approved subject to the recommended conditions, should mitigate and outweigh the potential

negative effects of the surrounding community. The City's Strategic Plan emphasizes climate action as a priority and CGS accelerate options for local, clean power. Through community solar, individuals, businesses and municipalities can choose solar as their energy resource, an option that has not existed until now and benefit from the low cost, improved infrastructure and local economic development.

- g) The conditional use will not create excessive additional requirements at public cost for public facilities and services.**

No additional public costs for public facilities and services are anticipated at this time. Limited essential public services (police and fire protection) will be necessary for construction and operation of the Project.

- h) The conditional use will not involve uses, activities, processes, materials, equipment and conditions or operations that will be detrimental to any persons, property or the general welfare by reason of excessive traffic, noise, smoke, fumes, glare, or odors.**

The construction period is planned for five months beginning in August of 2021. During construction, noise will be emitted by the construction vehicles and equipment. The amount of noise will vary based on what type of construction is occurring on a given day. These noise impacts will be temporary. The applicant has stated during the beginning construction phase, efforts are coordinated to have most materials arrive within the first couple of weeks of the Project starting. Temporary impacts are anticipated on some public roads within the vicinity of the Project, primarily through additional traffic and slow-moving construction vehicles. A condition to provide adequate off-street parking and staging so as to not impede traffic along adjacent roadway systems will be implemented. To limit reflection, solar PV panels are constructed of dark, light-absorbing materials and covered with an anti-reflective coating. Today's panels reflect as little as two percent of the incoming sunlight depending on the angle of the sun.

- i) The conditional use will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance as may be established in the comprehensive plan or other city plans related to natural, scenic, or historic features.**

This CSG is adjacent to a property identified to have an Oak Forest mesic subtype labeled as Good condition in the Natural Resources Inventory. The 50-foot interior setback along with the wildlife corridors and landscaping helps prevent any loss to the forest and establishes off-street trails and corridors for the Northfield Planned Walking and Bicycling Network of the City of Northfield Pedestrian, Bike, and Trail System plan.

- j) The traffic and parking generated by the use will not lower the Levels of Services as described in the comprehensive plan update of intersections within a quarter mile of the site.**

Once constructed, traffic to the site will be limited to period inspection and maintenance. There will be little or no impact on the level of service for intersections within a quarter mile of the site. Traffic will include pickup trucks, semi-trailers for delivery of equipment, and other machinery. It is unexpected to use any overweight or oversized loads during the construction.

- k) In residential districts - Not applicable to this site.**

- l) In the Perimeter Transition Area (PTA) - Not applicable to this site.**

m) Impacts such as noise, hours of activity, and outdoor lighting have been addressed to mitigate negative impacts on nearby uses.

During construction, noise will be emitted by the construction vehicles and equipment. The amount of noise will vary based on what type of construction is occurring on a given day. These noise impacts will be temporary. Hours of activity will follow the noise and nuisance ordinances in the City Code. The site will not be permanently lit nor have regular operation hours.

The site will have a portable toilet for workers. No water supply will be required. A dumpster will be on site during the entire construction process and will be serviced periodically for any waste debris that may come as a result of construction. Any materials will be stored and locked in storage containers that are placed on site and part of the access road turnaround. Large flatbed and delivery trucks will be delivering heavy machinery and equipment to the site periodically throughout the construction process but the majority of the deliveries will be within the first week. In addition, crews in passenger vehicles, pickup trucks, bobcats and skid steer loaders on tracks will be used on site almost daily. DivoCSG 17 will use appropriate temporary (construction-related) erosion and sediment control best management practices (BMP) through construction.

n) Parking is adequately provided for the proposed conditional use, but an excessive number of parking spaces are not proposed.

Construction, operation and maintenance crews will access to the site by a proposed fifteen (15) foot wide gravel road that will branch off an existing access road. Road access will be controlled for erosion control during construction compliant with the methods used for storm water management. Construction crew parking will be located entirely within the site. No additional permanent parking is required. Maintenance crews will park within the site access road and turnaround area.

Recommendation:

Staff is recommending the City Council approve a CUP for a 1MW community solar garden in the A-S district, subject to the following conditions:

- a) The applicant shall coordinate with adjacent CSG applicants to create as few shared access points to the project areas as possible, thereby ensuring proper access by the applicant, the applicant's employees, emergency personnel and minimizing adverse traffic effects on Highway 19.
- b) The applicant shall provide adequate off-street parking and staging to not impede traffic along adjacent roadway systems.
- c) New power lines installed to serve the site shall be underground other than the main feeder onto the property to the greatest extent possible and in conjunction with electric utility approval.
- d) Fencing shall be of a design capable of allowing small animals access in and out of the fenced CSG.
- e) An interior setback of 50 feet shall be met.
- f) The project must incorporate a 50-foot wildlife corridor on the west and east side of the CSG to provide a north/south access for wildlife away from Highway 19.
- g) Native bushes and trees shall be planted along the exterior and interior of the site (outside the fenced CSG).
- h) A cover crop inside the footprint of the CSG and wildlife corridors will be planted with a combination of low growth native crops and a seed mix that promotes pollinator friendly habitats.
- i) On-site storm water management shall not be provided at a single basin, but rather long and linear to

mimic runoff that currently exists and doesn't have a concentrated discharge point.

- j) This project is subject to other City approvals pursuant to City Code, including but not limited to site plan, grading and stormwater management approval, which could result in additional required project modifications.
- k) Pursuant to Northfield City Code, Section 2.9.5 (P), the applicant, property owner and City, shall enter into an Agreement to Secure the Decommissioning and Removal of a Solar Farm in a form acceptable to the City prior to commencement of construction of the solar farm project on the above-referenced property or within 180 days of the approval hereof, whichever is sooner. The applicant as part of this agreement shall either (i) provide evidence to the City that an escrow or other financial guarantee has been or will be created to secure the payment of the solar energy system removal costs, or (ii) furnish to the city a financial guarantee, in one of the forms listed in City Code, in the amount of the solar energy system removal costs, which financial guarantee must remain in full force and effect until removal of the commercial solar farm or community solar garden has been completed in accordance with Northfield City Code. The applicant shall prepare and provide a decommissioning plan acceptable to the City for inclusion in the above-mentioned agreement. Failure to timely meet these conditions shall render this Conditional Use Permit null and void and of not further force or effect without further action of the City Council.
- l) The Conditional Use Permit shall be recorded by the applicant at the applicant's expense within 180 days of the approval hereof. Failure to timely meet this condition shall render the Conditional Use Permit null and void and of not further force or effect without further action of the City Council.
- m) The applicant shall prior to construction provide to the City Engineer for review and approval a plan for development of the above-referenced property, which includes restoration of all areas compacted during construction of the solar farm project as well as the inclusion of native plantings on the project site.
- n) Stormwater discharge rates from the above-referenced property following construction of the solar farm project shall not be greater than existing conditions and shall be evenly distributed. The applicant shall prior to construction provide to the City Engineer for review and approval a stormwater plan meeting this condition on an ongoing basis throughout the life of the project.
- o) If the commercial solar farm or community solar garden as approved in this Conditional Use Permit remains nonfunctional or inoperative for a continuous period longer than one year, and is thereafter not brought into operation within the time specified by the City, the system shall be presumed to be abandoned and shall constitute a public nuisance. The applicant or the owner of the real property on which the commercial solar farm or community solar garden is located shall remove the abandoned system at the applicant's or owner's expense after a demolition permit has been obtained from the City. Removal of the commercial solar farm or community solar garden shall include removal of all modules and racking equipment and all structures erected in connection with the system.

Alternative Options:

If a proposed conditional use satisfies both the general and specific standards set forth in the zoning ordinance, the applicant is entitled to the conditional use permit. Importantly, if the applicant meets the general and specific ordinance standards, the city usually has no legal basis for denying the CUP. The City Council could offer changes, removal or additions to the conditions proposed by staff if necessary to mitigate potential negative impacts of the project.

Financial Impacts:

The development would be taxable and will increase the tax capacity for the City of Northfield based on the final assessed value by Dakota County. In addition, a production tax credit will be split between the City and the County on projects of this nature.

Timeline:

If approved by the City Council, the applicant plans to begin construction in August of this year or soon thereafter. A decommissioning agreement will come forward to the City Council for approval if the CUP is approved. Staff will complete a final review of the site plan and conditions to ensure all are being met.