

City of Independence

Request for a Text Amendment to the Zoning Ordinance to Allow Solar Gardens in the AG-Agriculture Zoning District

To: City Council
From: Mark Kaltsas, City Planner
Meeting Date: January 26, 2016
Applicant: Nathan Rogers
Owner: Barbara Janas Trustee
Location: 1351 Nelson Road

Request:

Nathan Rogers (Applicant) and Barbara Janas Trustee (Owner) request that the City consider the following actions for the property located at 1351 Nelson Road, Independence, MN (PID No. 30-118-24-23-0001):

- a. A text amendment to allow solar gardens in the AG-Agriculture zoning district as a permitted, accessory or conditional use.

Property/Site Information:

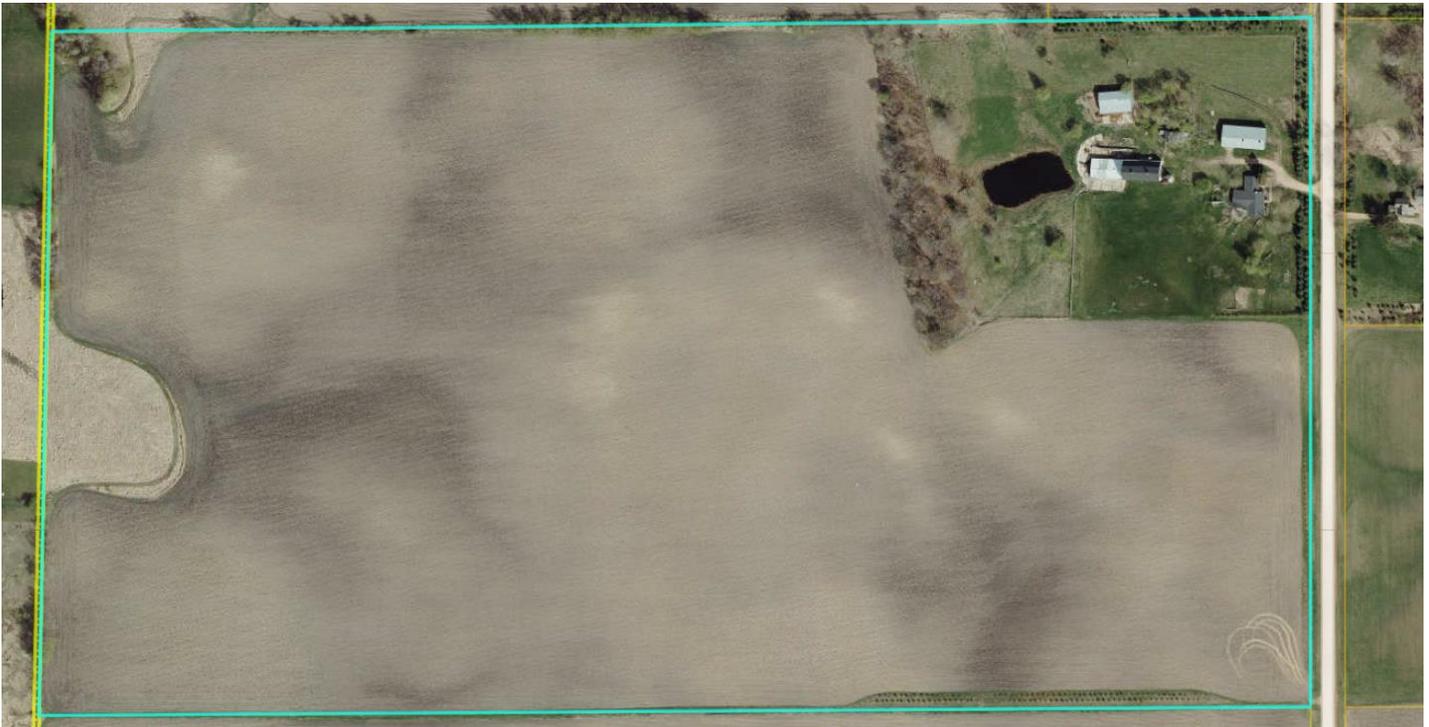
The initial property being considered is located at 1351 Nelson Road, which is on the west side of the road and just south of the County Line Road intersection. The property is comprised of an existing home, several detached agricultural accessory structures and tillable acreage.

Property Information: 1351 Nelson Road

Zoning: *AG-Agricultural*

Comprehensive Plan: *Agriculture*

Acreage: 73.73 acres



Discussion:

The applicant is seeking a text amendment to the City's zoning ordinance to permit community solar gardens as a permitted, accessory or conditional use in the AG-Agriculture zoning district of the City. The City's current zoning ordinance does not address solar in any form as a permitted, accessory or conditional use in any zoning district. The City has addressed wind generation systems within the zoning ordinance. All wind generation systems are considered a conditional use and permitted only in the AG-Agriculture zoning district. The City has previously discussed addressing solar system regulations in some fashion within the ordinance. This application brings the question to the forefront and will allow the City to further discuss the issues and benefits of considering solar systems within the zoning ordinance.

The applicant approached the City last year to discuss the possibility of amending the City's zoning ordinance to allow community solar gardens in some manner within the City. The City noted that a text amendment would need to be considered and then pending the outcome of that request, a site specific request could be made for an individual property. As recently noted and discussed, the City can determine where and what land uses should be permitted, accessory or conditional within the City. Once it is determined that a particular land use should be permitted in some manner, criteria and requirements for reviewing and approving a particular land use would be developed. At this point, the City is being asked to consider whether or not to allow solar systems within the AG – Agriculture land use district. Should the Planning Commission want to consider allowing solar systems within the City, an ordinance would be prepared for further discussion and consideration.

The applicant has prepared a conceptual site plan for the property located at 1351 Nelson Road. It was recommended that the applicant prepare a conceptual site plan to provide context and supplementary detail to benefit the discussion and ultimate consideration of the City. In addition to the site conceptually developed in their current proposal, the applicant (as well as several other solar developers) has inquired about installing solar gardens on several properties within the City.

Community solar gardens have become a current topic of discussion for many outlying and rural communities in the state of Minnesota following the passage of additional legislation in 2013 that mandated 1.5% of renewable energy comes from solar generation. Many communities have begun discussing if to allow and how to regulate solar systems within their respective communities.

Solar systems come in many forms, installation types and sizes. Although there are a wide array of different system types, solar systems can generally be broken down into 3-4 categories.

1. Roof mounted systems – residential and commercial (typically defined by size and underlying building use).
2. Free standing residential and commercial systems – ground mounted, pole mounted, etc. Would need to be defined by a maximum size and or power generation capability. Typically have minimum lot size, height and or setback restrictions which are established to minimize impacts on surrounding properties. Could be permitted as accessory structures if capable of meeting the established criteria and a conditional use if cross established thresholds.
3. Community solar system – could be further distinguished by size and generation capabilities.
4. Utility Scale Solar Systems – regulated by the Public Utilities Commission.

The applicant has provided information pertaining to the recent historical growth of the solar industry nationally and in Minnesota. The applicant has prepared information and site specific information relating to their request. The applicant has also provided a model ordinance which could be utilized during the development of a City specific solar ordinance. The model ordinance provides a plethora of technical information that can be used as a basis for considering a city specific solar ordinance.

Staff has developed similar solar system ordinances for communities both in and outside of Minnesota. The development of any ordinance should be based on the City's Comprehensive Plan and the current vision of the community and its residents. Solar ordinances should address all types of potential solar systems and will likely distinguish between system types and whether or not they are permitted, accessory, conditional or not permitted uses within a given zoning district.

The City has three primary zoning districts. The Comprehensive Plan further defines several additional land use categories as well as outlines the intended future locations of certain land uses. Along with the information presented by the applicant, the City should contemplate and provide direction regarding the following considerations:

1. Residential roof mounted solar systems are becoming more common. Typically these roof mounted systems are mounted flush to a residential roof and have been accepted as a typical accessory structure within most residential and agriculture zoning districts. Standards can be developed which further define the requirements for this type of solar system.
2. Commercial roof mounted systems are also becoming more common. These types of systems can be installed utilizing several different methods. Standards can further define the parameters of these types of systems to minimize their potential impacts. Commercial roof mounted systems could be considered as an accessory or conditional use within the Commercial/Light Industrial zoning district.
3. Free standing solar systems come in many shapes and sizes. The City could consider establishing parameters which further define residential versus commercial systems. Minimum lot size, permitted yard location, setbacks, screening and height requirements could be further defined to limit and minimize potential impacts on surrounding properties. These standards could also be used to establish whether or not the solar system is considered to be an accessory or conditional use on a particular property.
4. Community Solar Systems can also come in many different forms and sizes. This type of system is conceptually proposed with this application. These systems are capped by their generation capabilities; however, individual systems can be developed in concert on an individual property such that their scale becomes more consistent with a utility scale development. This type of development could then be considered more consistent with a commercial or industrial land use versus an agricultural land use. The City will need to consider whether or not these types of systems are in keeping with the character of the rural residential, agricultural and or commercial/light industrial zoning districts. While it is suggested that there are minimal impacts, often times these systems are not positively received by adjacent residential property owners. As a result, the location of these systems and their proximity to residential development becomes a critical issue to further discern. The City will need to consider if and or where these systems can be considered an appropriate and compatible land use. Are they compatible with typical and approved agricultural uses, rural residential uses and commercial/light industrial uses?

It may be possible to develop standards which would effectively mitigate any negative impacts that are otherwise imposed or perceived. Standards could include items such as minimum lot size, setbacks, screening requirements, height limitations, decommissioning plans and other similar criteria. The City will need to first determine the compatibility of the proposed land use and then determine if standards can be established to effectively mitigate potential impacts.

5. Utility Scale Solar Systems are regulated by the Public Utilities Commission.

Additional Considerations:

The City has property that is zoned AG-Agriculture, but is guided Rural Residential in the Comprehensive Plan. The City has guided this land rural residential and it is anticipated that the land ultimately develops in

a manner consistent with rural residential property. Allowing the development of long-term and substantial infrastructure on a property that is currently zoned agriculture may negatively affect the long term use and or develop ability of a property or neighboring property. The City will want to carefully consider if larger community or utility sized systems can be developed in concert with rural residential development. It may be desirable to consider development of an ordinance that uses the Comprehensive Plan as the guide for the future land use rather than the existing zoning of a property.

The City will want to develop both qualifying site and system/site specific design criteria. The applicant has provided some examples of setbacks, fencing and screening to demonstrate some basic ideas relating to larger system design. The City can further discuss and develop standards appropriate for the City of Independence.

The City will ultimately need to determine if the proposed use should be considered in the City. Following the initial review of the applicant's request, the City will need to determine if they would like to move forward with an amendment to the ordinance to allow the use. Depending on the direction provided by the City, an ordinance and site details would be further developed and reviewed by the City at a future meeting.

The City does have criteria for considering zoning amendments in the zoning ordinance. The criteria are provided to help guide the City's consideration of zoning amendments, but do not limit the City's ability to consider other factors or criteria. Staff is seeking direction from the Planning Commission relating to the established criteria and whether or not solar systems in general and more specifically, community solar gardens, should be considered in the zoning ordinance. The criteria provided in the zoning ordinance are as follows:

520.07. Criteria on zoning amendments. Subdivision 1. The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments.

Subd. 2. Zoning amendments must conform to the Independence city comprehensive plan.

Subd. 3. The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment.

Subd. 4. The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts.

Subd. 5. The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned.

Subd. 6. The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

A draft ordinance would be prepared for review by the City should staff be directed to move forward with amending the ordinance to permit solar systems within the City. There many elements and details of the

ordinance that will need to be developed. The City will ultimately need to determine if the proposed use is in keeping with the intent of the agricultural zoning district and the Comprehensive Plan. The City has the ability to amend or not amend the City's zoning ordinance to allow certain uses at its discretion. Once the ordinance is amended, the City would then need to use the established criteria for reviewing and granting future approvals.

Neighbor Comments:

The City received several calls regarding the proposed text amendment prior to the public hearing. During the public hearing several neighboring property owners and other residents of the City provided comments and feedback to the Planning Commission. The property owner and applicant also addressed the Planning Commission to provide information and respond to questions.

Planning Commission Discussion:

The Planning Commission reviewed the request and asked questions of staff relating to the proposed text amendment. The Commissioners discussed the concept of considering a text amendment which would address solar in City's ordinance. Commissioners stated that more information and consideration would have to be given to the idea of amending the ordinance. Commissioners voted 3-1 to recommend that the City Council direct staff to draft an ordinance amendment.

Recommendation:

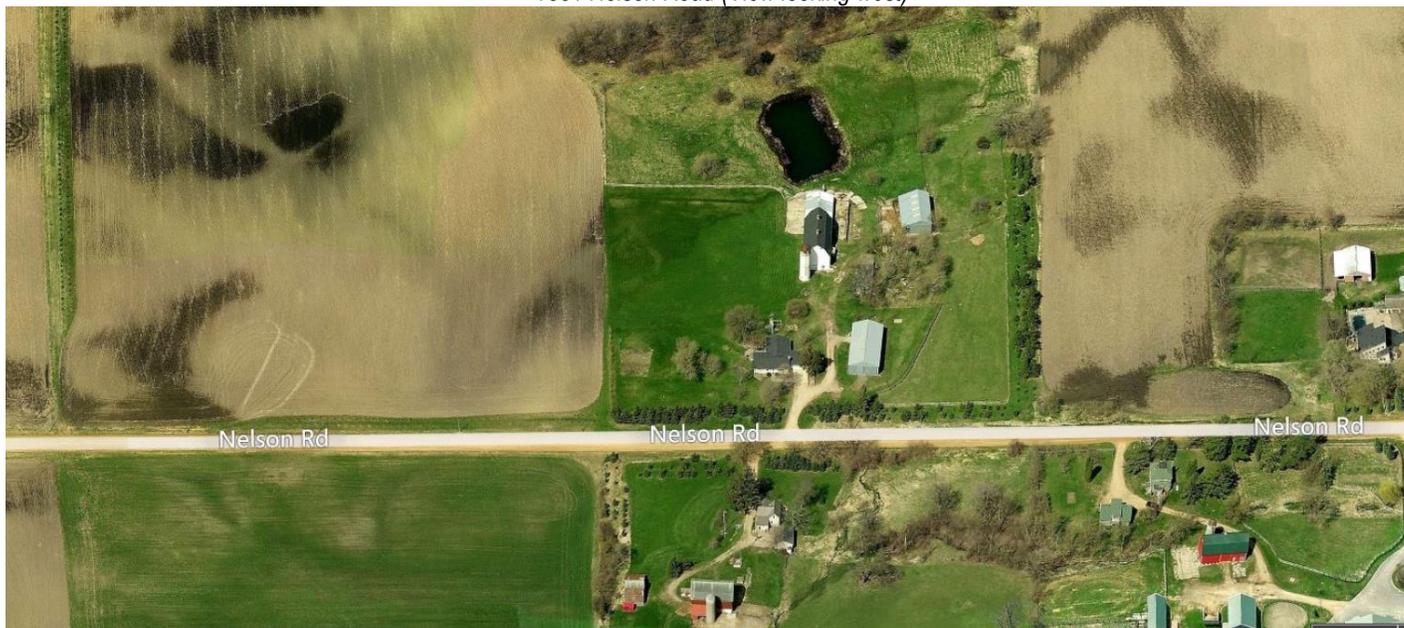
The Planning Commission recommended that the City Council direct staff to draft an ordinance amendment which would address solar within the City.

Attachments:

1. Property Pictures
2. Application
3. Applicant Description
4. Applicants Sound Information
5. Conceptual Site Plan

Attachment #1

1351 Nelson Road (View looking west)



1351 Nelson Road (View looking south)

