

RESOLUTION PC2024-002

A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, APPROVING CONDITIONAL USE PERMITS FOR A UTILITY SERVICE STRUCTURE, OVER- HEIGHT STRUCTURES AND A VARIANCE TO CITY CODE SECTION 151.108 (CONSTRUCTION MATERIALS) IN THE LIGHT INDUSTRY (I-1) ZONE AT 1260 70th STREET

WHEREAS, Nick Gamble (applicant) and Northern States Power Company (property owner) have made application for a conditional use permit for a utility service structure and over-height structures and a variance to City Code Section 151.108 in the Light Industry (I-1) Zoning District

WHEREAS, the property upon which the request is being made is legally described as:

The North 880.00 feet of the West 1375.00 feet of the South Half of the Northwest Quarter of Section 11, Township 115 North, Range 22 West, Scott County, Minnesota ; and

WHEREAS, all required public notices regarding the public hearing for the application were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the Board of Adjustment and Appeals of the City of Shakopee did review the application on February 8, 2024 and adopted the following findings:

Conditional Use Permit Findings:

Criteria #1 The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;

Finding #1: The Board has not received any evidence that the use of the property as a utility service structure and over-height structure for a power generation facility, if conducted in accordance with proposed conditions. The site is currently used for power generation. Some of the existing equipment will be de-commissioned as part of this project.

Criteria #2 The approval of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses allowed in the area;

Finding #2: The Board finds that the conditional use permit for an over-height structure and utility service structure will not impede the normal and orderly development and improvement of surrounding property. The Xcel Energy Blue Lake complex is over 120 acres in size and will not impact the development of the surrounding properties.

Criteria #3 Adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;

Finding#3: The Board finds that adequate utilities, access, drainage and other necessary facilities have been or will be provided for the site.

Criteria #4 The use is consistent with the purposes of the zone in which the applicant intends to locate the proposed use; and

Finding #4 The Board finds that this use is consistent with the purposes of the I-1, Light Industry Zone. The purpose of the Highway Business zone is to allow for the development of retail, services, office, and institutional development. The proposed development is a modernization of a use that is already on this site.

Criteria #5 The use is not in conflict with the Comprehensive Plan.

Finding #5 The Board finds that the use is not in conflict with the Comprehensive Plan. The comprehensive plan guides this property for Utilities.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF THE CITY OF SHAKOPEE, MINNESOTA, AS FOLLOWS:

That the conditional use permits for a utility service structure and over-height structures in the I-1, Light Industry Zone are hereby approved, subject to the following conditions:

1. The applicant must comply with the Engineering Department Memorandum dated January 30, 2024.
2. Electrical plans need to be drawn by an engineer to determine the hazardous location areas and their classifications.
3. An acceptable plan for the installation of Tree Protection Fence must be approved by Planning Staff prior to excavation or tree removal.
4. Replacement trees and required landscaping will be required for this project. The applicant must provide an approved replacement plan meeting diversity requirements and financial security consistent with City Code for the required landscaping and replacement trees prior to issuance of a Building Permit or Grading Permit.
5. The applicant must comply with requirements set forth by the Stormwater Review Memo from the Water Resources Engineer dated January 29, 2024.
6. The proposed crushed rock temporary storage yard on the east side of the site must be temporary and removed / restored within six months of the completion of this facility.
7. Barbed wire fencing must not be utilized for any new fencing on this site.
8. All permanent new driveway surfaces for vehicles for this project must be constructed of asphalt or concrete.

**Findings for the Variance Request to City Code Section 151.108 (Construction Materials)
Criterion I**

The strict enforcement of the ordinance provisions would cause undue hardship because of circumstances unique to the individual property under consideration. Undue hardship means the following:

1.A. The property owner proposes to use the property in a reasonable manner not permitted by an official control;

***Finding 1.A.** The applicant is proposing a reasonable use of the property and in a manner that is consistent with the spirit and intent of the construction materials and designs section of City Code. The applicant is proposing two-colors of pre-cast concrete panels. The site is roughly 60-acres in size and the proposed building is several hundred feet away from a lot line. It is likely that the lack of wall-height variation and window coverage on this building will have limited visibility from off-site because of existing / proposed trees and the roughly 375' setback from the lot line.*

1.B. The plight of the landowner is due to circumstances unique to the property;

***Finding 1.B.** The creative design possibilities for a facility that contains large engines for power generation are quite limited. The applicant has placed the building in a location that will have limited visibility from surrounding properties.*

1.C. The circumstances were not created by the landowner;

***Finding 1.C.** This situation is created by the landowner replacing an existing power generation facility. The proposed facility is much closer to meeting the design and material requirements than the existing facility. The applicant has worked with city staff to provide a design that meets the material requirements, but due to the unique nature of the equipment inside the building they have not been able to meet the design feature requirements.*

1.D. The variance, if granted, will not alter the essential character of the locality; and

***Finding 1.D.** The variance will not alter the character of the area. The site is generally screened by mature trees and has several large structures and a substation that are currently used for power generation.*

1.E. The problems extend beyond economic considerations. Economic considerations do not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

***Finding 1.E.** The problems extend beyond economic considerations. The applicant is limited in design options based on the amount of vibrations, acoustics and emissions from the engines inside the proposed building.*

Criterion 2:

It has been demonstrated that a variance as requested will be in harmony with the general purposes and intent of the chapter.

***Finding 2** The proposed variance would be in harmony with the general purpose and intent of Chapter 151 (Zoning) as it allows the applicant to construct a building that is capable of meeting the rigorous design standards for power generation facilities.*

Criterion 3

The request is not for a use variance.

Finding 3: *The request is not a use variance.*

Criterion 4

Conditions to be imposed by the Board of Adjustment and Appeals will insure compliance to protect the adjacent properties.

Finding 4: *The location of the proposed facility is roughly 375' from the lot line and will be screened significantly by existing mature trees on the site.*

Criterion 5

Variances in the flood plain overlay zone also shall meet additional criteria:

Finding 5: *(Not applicable since the property is not within the flood plain overlay zone.)*

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF THE CITY OF SHAKOPEE, MINNESOTA, AS FOLLOWS:

That the variance to City Code Section 151.108 (Construction Materials) to allow a building without wall height and depth variation and reduced window coverage is hereby approved, subject to the following conditions:

1. The building materials and design must match the submitted plans, utilizing at least two color-integral colors in the pre-cast panel design.
2. The specific metal roof panel material must be approved by Planning and Development Department staff.

Adopted in the regular session of the Board of Adjustment and Appeals of the City of Shakopee, Minnesota, held the 8th day of February 8, 2024.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
City of Shakopee
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