

**BOARD OF COUNTY COMMISSIONERS  
SCOTT COUNTY, MINNESOTA**

Date: September 7, 2021

Resolution No.: 2021-162

Motion by Commissioner: Barb Weckman Brekke

Seconded by Commissioner: Tom Wolf

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**RESOLUTION NO. 2021-162; APPROVING THE FINDINGS OF FACT AND CONCLUSIONS FOR SCHIEFFER PROPERTY RESIDENTIAL DEVELOPMENT ENVIRONMENTAL ASSESSMENT WORKSHEET AND NEGATIVE DECLARATION ON THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT (EIS)**

WHEREAS, Scott County was required to complete an Environmental Assessment Worksheet (EAW) according to Minnesota Rules Section 4410.4300 Subp. 36 A, for the Schieffer Residential Development Project; and

WHEREAS, Scott County submitted an EAW to the Environmental Quality Board (EQB) Monitor on July 20, 2021 to receive comments until August 19, 2021; and

WHEREAS, Scott County received comment letters from the Minnesota Pollution Control Agency, the Minnesota Department of Agriculture, the State Historic Preservation Office, Minnesota Department of Natural Resources, and Metropolitan Council; and

WHEREAS, staff has completed a Response to Comments and Findings of Fact and Conclusions addressing the comments; and

WHEREAS, based on the Findings of Fact and Conclusions, Scott County finds no need for an Environmental Impact Statement (EIS).

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners in and for the County of Scott, Minnesota, that the County Board approves the Findings of Fact and Conclusions for the Schieffer Residential Development EAW and makes a negative declaration on the need for an Environmental Impact Statement.

**VOTE RESULTS:**

**Yes:** Barb Weckman Brekke, Dave Beer, Michael Beard, Tom Wolf

**No:** None

**Absent:** Jon Ulrich

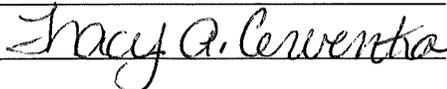
**Abstain:** None

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**State of Minnesota)**

**County of Scott )**

I, Lezlie A. Vermillion, duly appointed qualified County Administrator for the County of Scott, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Scott County, Minnesota, at their session held on 9-7-2021 now on file in my office, and have found the same to be a true and correct copy thereof. Witness my hand and official seal at Shakopee, Minnesota, on 9-7-2021.



County Administrator

Administrator's Designee

**Scott County**  
**Spring Lake Township, Minnesota**

**RECORD OF DECISION  
FINDINGS OF FACT, CONCLUSIONS and RESOLUTION 2021-162**

DATE: 9-7-2021

RE: Determination of Need for Environmental Impact Statement (EIS)

PROJECT: Schieffer Property Residential Development

Location: Scott County, Spring Lake Township, Section 21  
Tax Parcel Numbers: 119210020, 119210041, and 111290020

**FINDINGS OF FACT**

1. Pursuant to Minnesota Rules for land use conversion, 4410.4300, Subpart 36A, Scott County, acting as the Responsible Governmental Unit (RGU) prepared the mandatory Environmental Assessment Worksheet (EAW) for the proposed Schieffer Property Residential Development.
2. As indicated in the EAW, the applicant is proposing to subdivide 113.4 acres of primarily agricultural land in the central portion of Spring Lake Township in Scott County, Minnesota. The applicant proposes to offer 39 residential single-family lots for future sale. Approximately 18.2 acres of open space is also planned, which will include buffers, woodlands, wetlands, and stormwater basins.
3. The Draft EAW was filed with the MN EQB and notice for its availability for public review and comment was published in the *EQB Monitor* on July 20<sup>th</sup>, 2021. A copy of the EAW was sent to all persons on the MN EQB Distribution List and to persons who requested a copy. The EAW was also made available on the Scott County website ([scottcountymn.gov/SchiefferEAW](http://scottcountymn.gov/SchiefferEAW)).
4. A press release announcing the availability of the DEIS for public review and comment was sent to the Jordan Independent, the Prior Lake American, and Belle Plaine Herald on the week of July 25<sup>th</sup>, 2021.
5. The public review and comment period for the EAW began on July 20<sup>th</sup>, 2021 and ended on August 19<sup>th</sup>, 2021.
6. During the public review and comment period for the EAW, five agencies submitted written comments, including Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, State Historic Preservation Office, Metropolitan Council, Minnesota Department of Agriculture.

7. The written comments received from regulatory state agencies during the EAW comment period are presented below with a response following each comment. Regulatory agency comments and responses are formatted with reference to item 8 of this Record of Decision as follows:

Agency	Comment	Response
State Historic Preservation Office	Due to the nature and location of the proposed project, we recommend that a Phase I archaeological survey be completed. The survey must meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation and should include an evaluation of National Register eligibility for any properties that are identified.	The project proposer will further review and consider the recommendation for surveys in coordination with the county.
Minnesota Pollution Control Agency	Noise (Item 17) Based on the information provided in this EAW, the MPCA does not have any concerns about noise if or when the Project is complete. The MPCA recommends that construction equipment be muffled, as appropriate, during all phases of construction. For noise related questions, please contact Fawkes Char at 651-757-2327 or fawkes.char@state.mn.us.	Thank you for your comment. The applicant will instruct contractors to use properly muffled equipment, as appropriate, during construction of the project. Construction standards will be followed for all phases of construction.
Minnesota Pollution Control Agency	Wetlands Table 8.1 includes the United States Army Corps of Engineers (USACE) Section 404 permit, hence the table must also include the MPCA 401 Water Quality Certification. Table 11.1, indicates that 6.23 acres of wetlands are delineated. However, less than 1 acre of wetlands will be impacted due to roadway access construction. These wetland impacts are estimated and are likely to change upon detailed project engineering. Any permanently impacted wetlands must be mitigated at a replacement ratio acceptable to all agencies that regulate surface waters for the State of Minnesota.  In accordance with Minnesota Statutes, the Project should include the MPCA as a regulator of all surface waters as defined by Minn. Stat. § 115.01, subd. 22. Waters of the state. Even though there may be surface waters that are determined to be USACE non-jurisdictional, or exempt from the Wetlands Conservation Act, all surface waters are regulated by the MPCA and any surface water impact needs to be described in the application and may require	Thank you for the comment. MPCA 401 Water Quality Certification added to table 8.1.  The applicant understands that a pre-filing meeting is needed at least 30 days prior to submitting a 401 Water Quality Certification request.

	<p>mitigation.</p> <p>Also, a Section 401 Water Quality Certification is required for any project with a federally-issued license or permit that authorizes an activity that results in a discharge to a water of the United States. The 401 Water Quality Certification becomes an enforceable component of the associated federal license or permit – issued under either Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. The scope of a Clean Water Act Section 401 Water Quality Certification is limited to assuring that a discharge from a federally licensed or permitted activity will comply with water quality requirements. Revisions to the Section 401 rule became effective in September 2020, and now require applicants to request a pre-filing meeting from the certifying agency at least 30 days prior to submitting a 401 Water Quality Certification request. The MPCA is the certifying authority in the State of Minnesota. For further information about the 401 Water Quality Certification process, please contact Bill Wilde at 651-757-2825 or <a href="mailto:william.wilde@state.mn.us">william.wilde@state.mn.us</a>.</p>	
<p>Minnesota Pollution Control Agency</p>	<p>Stormwater</p> <ul style="list-style-type: none"> <li>• Because the EAW mentions impaired waters within 1 mile of the Project, if at least 50 acres of land will be disturbed, the Stormwater Pollution Prevention Plan (SWPPP) for the Project requires review and approval by the MPCA prior to issuance of the National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit (CSW Permit).</li> <li>• To comply with CSW Permit requirements, the Project proposer is encouraged to provide as much stormwater volume control via infiltration upstream of the proposed retention pond as possible to minimize discharges to downstream waters.</li> <li>• The Project proposer is also encouraged to minimize impervious surfaces by constructing narrower streets and sidewalks or utilizing pervious pavements within the development. Pervious pavements help infiltrate stormwater, eliminate ponding and reduce salt use in winter months. Please direct questions regarding CSW Permit requirements to Roberta Getman at 507-206-2629 or <a href="mailto:roberta.getman@state.mn.us">roberta.getman@state.mn.us</a>.</li> </ul>	<p>Thank you for the comment. If the project requires 50 acres or more of land disturbance, the MPCA will be provided a copy of the SWPPP for approval prior to any land-moving activities. The applicant, in coordination with the county, will evaluate options for stormwater volume control such as the use of infiltration upstream to retain water and minimize discharge to downstream waters. The applicant, in coordination with the county, will evaluate options for minimizing impervious surfaces on</p>

		the project.
Minnesota Pollution Control Agency	<p>Water Resources (Item 11) Impaired Waters</p> <p>This section of the EAW appears dated, and that is likely a function of this product being developed before the 2020 impaired waters list was approved by the Environmental Protection Agency (EPA) and released publically. Fish Lake (70-0069-00) was accurately recognized as being 0.35 miles southeast of the Project and impaired for nutrients and mercury. While the EAW states that Total Maximum Daily Loads (TMDLs) have not been approved, Fish Lake now has a 2020 EPA approved Nutrient TMDL to address the impairment that was included in the website at: <a href="https://www.pca.state.mn.us/sites/default/files/wq-iw7-49e.pdf">https://www.pca.state.mn.us/sites/default/files/wq-iw7-49e.pdf</a>. The Fish Lake Phosphorus TMDL summary is Table 55 on page 152. For questions about this impairment, please contact Jordan Donatell at 651-757-2254 or <a href="mailto:jordan.donatell@state.mn.us">jordan.donatell@state.mn.us</a>.</p>	Thank you for the comment. The document has been updated to include the 2020 EPA approved nutrient TMDL for Fish Lake.
Minnesota Department of Agriculture	No comment.	Thank you for the comment.
Met Council	<p>Item 6 – Project Description (Todd Graham, 651-602-1322)</p> <p>The EAW site is a small part of Transportation Analysis Zone (TAZ) #2223 in Spring Lake Township. TAZ allocations for 2040 have been prepared by Scott County. This TAZ has decreased in population, losing -34 households and -155 population during 2020-2040. Should the Schieffer Residential Development project move forward, the forecast and TAZ allocation are not adequate. Council staff recommend increasing the 2030 and 2040 communitywide forecast and the TAZ allocation by +70 households and +300 population. This would require a comprehensive plan amendment which should be noted in the required approvals section of the EAW.</p>	As noted, TAZ allocations will be updated at the time of the plan amendment, as well as community forecasting and allocations
Met Council	<p>Item 19 – Cumulative Potential Effects (Cameran Bailey, 651-602-1212)</p> <p>Staff recommends adding the following as potential mitigation methods for Item 11. Water Resources, Item 12. Contamination/Hazardous Materials/Wastes, Item 13. Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources, Item 16. Air, and Item 18. Transportation. All</p>	The applicant, with the county, will consider implementing the provided suggestions for the proposed project where they are feasible and appropriate.

	<p>of these mitigation methods would be in alignment with multiple goals, policies, and strategies adopted by Scott County in its 2040 Comprehensive Plan and are offered for your consideration to further those policies and the Council’s Natural Resources and Resilience policies, as stated in the Land Use Policy section of Thrive MSP 2040:</p> <ul style="list-style-type: none"> <li>• Orienting new home siting and overhang design with the sun and horizon to maximize solar energy gain during the winter and minimize solar energy gain in the summer.</li> <li>• Selecting home insulation, shingling, and exterior construction materials for minimum embedded greenhouse gas emissions, and for their nontoxic, recyclable, and biodegradable qualities.</li> <li>• Selecting the preservation of mature trees for their ability to shade new homes in the summer and allow solar insolation in the winter.</li> <li>• Selecting vegetation for landscaping that is native, edible, draught-tolerant, and provides habitat to known endangered and sensitive wildlife and habitat species in the area.</li> <li>• Orienting lawn and right-of-way boulevard grading and landscaping to maximize a site-wide integrated stormwater management and irrigation network and integrated site-wide wildlife and habitat ecosystem.</li> <li>• Building all homes solar-ready, geo-thermal, and EV-ready for seamless installation should future residents desire.</li> <li>• Building a centralized, electric vehicle “car share and charging hub” within the development.</li> <li>• Soliciting the developer to integrate a community solar garden into the development to serve new energy demand needs, while also relieving resident-perceived pressures on agricultural land by new community solar garden development.</li> </ul>	
<p>Minnesota Department of Natural Resources</p>	<p>Page 13, Surface Waters. If there is to be a crossing of the DNR Public Watercourse, then it is possible that the appropriation necessary to construct the crossing of the watercourse will need a DNR Water Appropriation Permit.</p>	<p>There is currently no plan to cross the DNR Public Watercourse. All necessary permits (Public Waters Crossing, Utility Crossing Licenses, Water Appropriations, etc.) will be</p>

		pursued if plans change and a crossing is needed.
Minnesota Department of Natural Resources	Page 14, Drainage. It is unclear if the project area is currently tile drained.	Given the agricultural use on the property, it is assumed there is some agricultural drain tile currently on the property. No drain tile maps have been gathered from the landowner. The site will be designed and graded to properly drain in the post-construction setting considering any drain tile that may exist.
Minnesota Department of Natural Resources	Page 15, Groundwater. It should be noted that the irrigation of more than 1.4 acres of landscaping by an individual homeowner will require more than one million gallons of water per year during dry periods and will require a DNR Water Appropriation Permit. Please inform the home owners of the need for a DNR Water Appropriation Permit should they choose to irrigate more than 1.4 acres of property.	Comment noted for the record.
Minnesota Department of Natural Resources	Page 16, SSTS. It is good that a hydric soil investigation will be conducted. It appears that multiple potential septic system drainfields are sited in areas with potentially hydric soil. It is also unclear if any of the project area is tile drained, which could change hydrologic conditions significantly once the area is converted from agricultural to residential use. It should also be noted that once tillage ceases in formerly agricultural areas, soils have a tendency to get wetter over time. It will be very important to follow construction BMP's in areas where septic drainfields will be placed in order to preserve soil structure that is necessary for adequate treatment of septic effluent. No heavy machinery should be used in these locations and any excavation should be in a manner that maintains soil structure in an un-smearred and un-compacted condition. No grading should be performed when the soil moisture content at the depth of excavation is below the plastic limit. We recommend fencing future drainfield areas off to avoid any disturbance during construction activities.	Thank you for your comment. The applicant will work closely with the county to ensure that individual septic systems are properly sited in accordance with the Scott County septic ordinance (including the presence of any currently operating drain tile systems) and will protect the systems during construction. The applicant will direct future landowners towards septic system ownership manuals to help maintain the life and function of their personal systems.
Minnesota Department of Natural Resources	Page 16, SSTS. Please make future landowners aware of resources such as this personalized septic system owner manual that can help to maintain the life and function of	Thank you for the comment.

Resources	their septic system.	
Minnesota Department of Natural Resources Minnesota Department of Natural Resources	Page 18, Stormwater. The developer should consider the use of stormwater from constructed stormwater features for irrigating some of the landscaping in the development. Please note that this type of use does not require a DNR Water Appropriation Permit. Page 18, Stormwater and Erosion Control BMPs. We recommend using native seed mixes in stormwater features and native plants in landscaping to the greatest degree possible in order to provide pollinator habitat.	The applicant, in coordination with the county, will consider the use of stormwater from constructed stormwater features for irrigation of project landscaping. The applicant will consider using native seed mixes in stormwater features and native plants in landscaping where feasible.
Minnesota Department of Natural Resources	Page 24, Rare Features. The DNR does not anticipate impacts to state-listed rare features as a result of this project.	Comment noted for the record.

8. Corrections to the EAW or changes in the project since the EAW was published includes an update to the required permits table to include an MPCA 401 Water Quality Certification. Also, an update to the Total Maximum Daily Load (TMDL) for Fish Lake to include the 2020 accepted measurements.
9. In consideration of the comments received and reviewed, and subsequent information provided by the developer, staff recommends the following Findings of Fact and Conclusion:

**A. The type, extent, and reversibility of effects:**

The applicant is proposing to convert 113.4 acres of primarily agricultural land to 39 residential single-family lots for future sale. Approximately 18.2 acres of open space is also planned, which will include buffers, woodlands, wetlands, and stormwater basins. The conversion from agricultural to residential is seen as a permanent conversion. Any impacts from this conversion have been addressed in the EAW. Mitigation measures include the following:

Land Use – A rezoning from RR-1 to RR-2 will need to take place by applying for a Zoning Amendment through Scott County.

Surface Waters - Impacts to wetlands to accommodate a proposed road are anticipated to have only minor effects, if any, to the watershed. The project proposer evaluated alternatives as the site was designed to avoid and minimize impacts to the extent practical and will further analyze opportunities for reductions as required through the Wetland Conservation Act sequencing process. Compensatory wetland mitigation for unavoidable wetland impacts will occur in the same minor watershed, major watershed, or established Bank Service Area (BSA).

Traffic - The existing adjacent roads to the project area (195th Street and Vergus) are partially

paved roads, but then transition to a gravel surface at the proposed access locations. As part of this project, bituminous paving of the existing roads will be completed to meet the proposed points of access.

Cumulative Potential Effects - Mitigation for anticipated minor cumulative impacts in the area will include providing approximately 18.2 acres of open space (16 percent of the site), providing buffers from surrounding developments, protecting woodlands and wetlands to the extent practicable, pretreating stormwater and controlling stormwater rates, and providing adequate private facilities for potable water and wastewater treatment. These provisions will help minimize potential cumulative effects of past developments and future developments within the region. Given the nature of cumulative potential effects, the evaluation of available and relevant information, and mitigation efforts proposed, the potential for significant environmental effects due to these cumulative effects appears low.

**B. The cumulative potential effects of related or anticipated future projects:**

Scott County has planned for future growth and development in this particular area as part of the County’s 2040 Comprehensive Land Use Plan, Local Water Plan, Comprehensive Water Resource Management Plan, Capital Improvement Plan, Transportation Plan, and the County’s Master Planning for Parks. Spring Lake Township has enacted the Standards for Development and Construction as a guide for land use planning and growth. These efforts will ensure that the cumulative impacts of future growth and development to the environment and the Township are anticipated and mitigated.

**C. The extent to which effects can be mitigated by ongoing public regulatory authorities:**

The table below lists all government approvals required as a part of the proposed project.

Unit of Government	Type of Application
U.S. Army Corps of Engineers	Section 404 Permit, Clean Water Act
Minnesota Pollution Control Agency	NPDES/SDS MN G490000 General permit for non-metallic
	Section 401 Water Quality Certification
Minnesota Department of Natural Resources	Public Waters Work Permit
	Utility Crossing License
	Appropriation/Dewatering
Minnesota Department of Health	Drilling/Sealing of Wells
Scott County	Rezoning Application
	Septic system, building permits, etc.
	Preliminary Plat Approval
	Stormwater Management Review
	Right of Way Permit
	Grading Permit

Unit of Government	Type of Application
	Obstruction Permit
	Utility Permit
Scott Water Management Organization	Interim Use Permit Review Authority
Spring Lake Township	Wetland Conservation Act
	Township Approval
	Driveway Permit
	Dust Control Permit
	ROW/Utility Permit
Scott SWCD	Wetland Delineation Confirmation

**D. The extent to which effects can be anticipated and controlled as a result of other studies undertaken by public agencies or the project Proposer, or of previous EAWs/EISs.**

Scott County’s past experiences with other residential developments will be referenced when completing the platting process and determining necessary conditions that may not be stated in the EAW.

**E. It is, therefore, concluded that an Environmental Impact Statement is not needed.**

Staff is recommending that an EIS is not needed. Outstanding issues can be addressed through the platting process.

## CONCLUSIONS

- I. Scott County has fulfilled all applicable procedural requirements of law and rule regarding the determination of need for an Environmental Impact Statement (EIS) for the proposed Schieffer Residential Development Project.
- II. Pursuant to Minnesota Rules Part 4410.1700, Subparts 6 and 7, the proposed project has been evaluated by the public and Scott County to determine potential environmental effects. Based on the findings and record in this matter, Scott County has determined that the proposed Schieffer Residential Development project does not have the potential for significant environmental effects. Scott County concurrence by Resolution No. 2021-162, declaring a negative need for an Environmental Impact Statement to be adequate is ATTACHED to this Record of Decision.
- III. Pursuant to Minnesota Rules Part 4410.1700, Subpart 5, a copy of this RGU Record of Decision is being provided, within 5 days, to all persons on the MEQB Distribution List, to persons commenting and to persons who requested a copy. This Record of Decision will also be made available on the Scott County website.