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DeKalb County Government
Sycamore, Illinois

Planning and Zoning Committee Special Meeting
(October 27, 2021)

The Planning and Zoning Committee of the DeKalb County Board met on October 27, 2021 at 6:30 pm in the DeKalb County Legislative Center, Gathertorium, in Sycamore, Illinois. In attendance were Committee Members: Tim Bagby, Steve Faivre, John Frieders, Jerry Osland, Roy Plote, Craig Roman, and Larry West, and Community Development Department staff: Derek Hiland and Marcellus Anderson. Also in attendance were: County Board members Kathy Lampkins; Brian Gregory, DeKalb County Administrator; Greg Millburg, of the DeKalb County Farm Bureau; Larry and Steph Forsberg; John Lyon; Jim Hutcheson; Rhonda Henke; Brad Belanger; Tim Hakes; Katherine Androwski; John Lauderman; Andrew Tim; Anita Zurbrugg; Michael Lanan; Mike Hamrick; Jim Pomillo, of Samsung; Attorney Kyle Barry; and, Kevin Adelman, of Leeward Renewable Energy.

Call to Order / Roll Call

Mr. Faivre, Planning and Zoning Committee Chair, called the meeting to order. All members were present.

Approval of Agenda

Mr. Roman moved to approve the agenda, seconded by Mr. Plote, and the motion carried unanimously.

Approval of Minutes

Mr. Osland moved to approve the minutes of the June 23, 2021 and July 21, 2021 Planning and Zoning meetings, seconded by Mr. Bagby, and the motion carried unanimously.

Public Comments

John Lyon read a statement highlighting why he felt the proposed solar farms should not be approved. He noted the Hearing Officer's recommendation that the solar panels in the solar farm be at least five hundred (500) feet from the wall of an existing, occupied residence, and asked that the five hundred feet be from the property line instead. He also voiced his belief that the setback should be revised to be at least 1,000 feet. He finished by stating that the Decommissioning Plan submitted by leeward was inadequate, and that the financial guarantee for it should be a cash deposit.

Brad Belanger voiced his belief that the existing solar ordinance needs to be revisited and revised. He also felt that any setbacks should be from the property line and not the residence. He asked that the Committee require that the vegetative screening be installed prior to construction, and talked

about his issues with Leeward's Decommissioning Plan. He finished by recommending that the setbacks be at least 1,500 or 1,000 feet.

John Lauderman opined that there needed to be more reasonable accommodations for non-participating land owners. He then detailed some of the problems he saw, in particular: concerns about soil quality and the potential for soil contamination; and, deficiencies in the submitted applications. He also questioned Leeward's ability to properly run a facility like that proposed.

Rhonda Henke noted that she agreed with the setback revisions suggested by the previous speakers, and the need for it to be from the property line. She agreed that the screening should be installed prior to construction. She also suggested that the financial guarantee for the Decommissioning Plan be in the form of an escrow account.

Larry Forsberg opined that not many people were in favor of the proposed solar project (Owens Creek Solar). He asserted that solar farms may be good tax-wise, but not in any other way. He agreed that the setbacks should be from the property lines. He talked about the unincorporated village of Clare, and asserted the need for it to be protected. He recommended that the setbacks should be at least 2,500 feet, and detailed his issues with the submitted Decommissioning Plan.

Katie Androwski stated her concern that if the State and Federal subsidies dried up, the companies would fall, and leave the abandoned solar farm a brownfield. She voiced her concerns about the Decommissioning Plan, and the Leeward's lack of experience in running such a facility. She opined that the non-participating land owners get nothing from these projects, and described how they would hurt the local economy.

Tim Hakes identified himself as a homeowner in Clare, noted his belief that fifteen (15) foot tall panels are too tall, and that these facilities will make the area feel like industrial.

Anita Zurbrugg noted her support for solar farms, and described why she felt they were good for the County.

Michael Lanan noted that he lives on Johnson Road, and talked about how much he had invested in his property. He recommended that the five hundred (500) foot setback should be measured from the property line instead of the house.

Mike Hamrick he detailed his concerns regarding drain tiles and how the projects will impact them. He also suggested that instead of using field plants as ground cover, they should plant agricultural products.

Andrew Tim stated that he was an electrical engineer, and asserted that he felt Leeward was using the tech wrong. He asserted that chemical and electrical studies need to be done prior to allowing these projects to go in.

Old Business -

none

New Business – NGPL Map Amendment and Special Use Request

Mr. Hiland explained that Natural Gas Pipeline of America, LLC (NGPL) was seeking a map amendment and special use permit for the expansion of an existing pipeline facility located on North First Street in DeKalb Township. He informed the Committee that the Public Hearing was held on October 7th, and that the Hearing Officer had forwarded a recommendation for approval with conditions.

Mr. Plote moved to recommend approval of the petition, with conditions, seconded by Mr. Bagby.

Mr. Bagby noted his feelings that there should be an expedited process for dealing with matters like this, which cannot wait to go through the County's typical three-month process. Mr. Hiland explaining that the existing facility was a "grandfathered" use, and any expansion would require getting the special use permit. He reported that the NGPL was willing to go through the County's processes, however, with the deadline imposed by the federal mandate and the incoming winter weather, they would not be able to wait that the three months to begin the installation & expansion. He noted that he had consulted with the State's Attorney Office, which informed him that this was the best way to address the situation. Mr. Bagby inquired whether staff had any suggestions as to ways speed up the normal process for cases like this in the future. Mr. Hiland responded that speeding up the process would require removing steps from the process, which would require the County Board to adopt a new process specific to public projects like these that would allow them to proceed by right and not have to go through the special use process. He then elaborated on the current process and ways it could be changed.

Mr. Plote inquired whether it was checked to make sure that the situation was not created by NGPL not acting in a timely manner to address the mandate. Mr. Hiland responded that he had reached out to the States Attorney Office and neighboring Counties, and he believed that they had acted in a timely manner.

The motion to recommend approval of the petition was carried unanimously.

New Business – Owens Creek Solar Special Use Request

Mr. Faivre inquired whether given the similarities of the three solar farm applications, if the Committee should address all of them at once. Mr. Hiland explained why the three projects should be addressed separately.

Mr. Roman moved to recommend approval of the petition, seconded by Mr. Frieders.

Mr. West recommended that the Committee change the Hearing Officer's recommendation of a five hundred (500) foot setback from the outer wall of an existing, occupied dwelling to the closest solar panel edge, be changed to be measured from the property line instead, and to require that the vegetation be installed before the construction begins. Mr. Faivre noted that the two items should be addressed separately.

Mr. West moved to amend the Hearing Officer's recommendation of a setback of at least five hundred (500) feet, as measured between the outer wall of an existing, occupied dwelling and the closest solar panel edge, to instead be measured from the property line and the closest solar panel edge, seconded by Mr. Bagby.

Mr. Plote voiced his issues with the recommended setback, in particular with how it restricts a property owners rights in how they use their property.

Mr. Faivre noted that much had been said comparing the Wind and Solar Ordinances, and iterated his reasons for why it was not a fair comparison. He also noted his shock at the Hearing Officer's setback recommendation. He added that he had talked with the various applicants, who expressed that a three hundred (300) foot setback would be more workable.

Mr. Hiland noted from comments made by the Committee members and the public that there seemed to be some confusion about the Hearing Officer's setback recommendation. He explained that the Hearing Officer's setback recommendation would be an additional condition, running concurrent with the standard one hundred (100) foot setback from a property line, not a replacement of it. It would be the greater of the two. Mr. Plote asked whether the five hundred (500) foot setback would affect non-residential properties, and Mr. Hiland responded that the recommended setback was only from an existing, occupied residential building. Mr. West noted that this would seem to penalize someone looking to build a residence later. Mr. Hiland explained that setbacks are measured at the time of construction, and that it would not restrict a neighboring property owner from building a residence after the facility was installed.

Mr. Frieders expressed his preference for a setback to be measured from a property line, but noted that he felt five hundred (500) feet was too much. Mr. Bagby posed the idea of whether it would make sense to have a minimum distance of say three hundred (300) feet from the lot line, but no less than five hundred (500) feet from a residence. Mr. Frieders opined that going more than three hundred (300) feet from the property line. Mr. Faivre agreed, and elaborated on his reasons for why five hundred (500) feet was too much.

Mr. Plote noted that he preferred the existing one hundred (100) foot setback from the lot line.

Mr. Hiland explained how special use permit condition criteria worked and what was generally considered advisable regarding such criteria. He cautioned against adding a blanket qualifier that effectively takes the place of the property line setback identified in the ordinance, noting that adding a condition which served as an additional setback from a residence would be more appropriate and specific to an individual property.

Brian Gregory, the County Administrator, noted that the county ordinance requires a one hundred (100) foot setback from the property line for solar farms, and warned that changing the setback from the property line would require a text amendment. Mr. Faivre responded with his reasons why he felt that the proposed amendment would not cross that line.

The Committee continued its discussion about the proposed setback amendment and its various elements.

A roll call vote was taken on the amendment have the proposed setback be measured from the lot line instead of the residence. The amendment was carried six (6) yes to one (1; Roman) no.

Mr. Frieders moved to change the distance of the proposed setback from five hundred (500) feet to three hundred (300) feet, seconded by Mr. Plote. A roll call vote was taken, and the motion was carried four (4) yes to three (3: Bagby, Osland, West) no.

The Committee then has a discussion with Mr. Gregory and Mr. Hiland regarding the Decommissioning Plan, its requirements, the bond associated with it, and other financial options that could be used in place of a bond.

Mr. Frieders moved to amend the motion to recommend approval to add a condition requiring that all screening be installed prior to the start of construction, seconded by Mr. West.

The Committee had a discussion regarding the screening, when it could / should be installed, and the types of vegetation to be included in it. The Committee asked Kevin Adelman, of Leeward Renewable Energy, to elaborate on the size and proposed composition of the screening and on when they intended to install the screening.

A roll call vote was held, and the amendment passed six (6) yes to one (1: Roman) no.

Mr. Bagby moved to amend the motion to recommend approval of the petition to add a condition that all pile driving activity may only occur between the hours of 7:00 am to 5:00 pm, seconded by Mr. West. A roll call vote was held and the motion passed five (5) yes to two (2: Frieders, Osland) no.

The Committee had a discussion about whether to establish a setback from the unincorporated village of Clare. Mr. Adelman was asked about the distance the solar panels were from Clare, and he responded that he estimated approximately five hundred (500) to five hundred fifty (550) feet, though he did not know if that was measured from the property lines or the residents.

A roll call vote was held on the amended motion to recommend approval of the petition, and the motion carried four (4) yes to three (3: Bagby, Osland, West) no.

New Business – Red Maple Solar Special Use Request

Mr. Bagby moved to recommend approval of the petition, seconded by Mr. Roman.

Mr. Plote moved to add all of the same amendments added to the Owens Creek Solar petition to this petition, seconded by Mr. Osland.

Mr. Adelman described how the proposed setback amendments would significantly impact their project, and informed the Committee that they could potentially work with a three hundred (300) foot setback from the residences. He then submitted revised plans for both the Owens Creek Solar and Red Maple Solar projects that they had prepared in response to the Hearing Officer's

recommendations. Mr. Frieders asked if they could not seek waivers from the affected property owners, and Mr. Adelman responded that they could try.

Mr. West voiced his disapproval of them submitting a revised plan to the Owens Creek Solar project, and Mr. Adelman responded that he had wanted to, but he was never given a chance during the Owens Creek Solar discussion. Mr. West responded that he could have presented the information during the Open Comment portion of the discussion, and Mr. Adelman responded that he had been informed beforehand that the Committee would give him an opportunity to speak on the matter during their discussion of the application.

Mr. Kyle Barry, attorney for Leeward Renewables Energy, LLC, voiced his opinion that the proposed amendments would have been more appropriate as text amendments to the Code than as conditions to the applications. Mr. Hiland elaborated on why he did not believe that to be the case.

Mr. Bagby expressed his feeling that each of the projects should be dealt with individually, noting that the proposed five hundred (500) feet setback should not apply to every project, and that the conditions should reflect the size and scope of the proposed project.

The Committee had an extended discussion regarding the proposed amendments.

A roll call vote was held on the motion to apply all of the same amendments applied to the Owens Creek Solar project to the Red Maple Project. The motion failed six (6) no to one (1: West) yes.

Mr. Bagby moved to amend the recommendation of approval to add the following two conditions:

- *the proposed screening must be installed prior to the start of construction, and*
- *all pile driving activity may only occur between the hours of 7:00 am and 5:00 pm.*

Seconded by Mr. Plote. The motion was carried unanimously.

Mr. West moved to amend the Hearing Officer's recommendation to change the recommended 500-foot setback from a residence to 1,000 foot from a residence, seconded by Mr. Osland. A roll call vote was held, and the motion failed five (5) no to two (2: Osland, West) yes.

A roll call vote was held on the amended motion to recommend approval of the petition, and the motion carried six (6) yes to one (1: West) no.

New Business – DK Solar Special Use Request

Mr. Osland moved to recommend approval of the petition, seconded by Mr. Roman.

Mr. Frieders moved to amend the recommendation of approval to add the following two conditions:

- *the proposed screening must be installed prior to the start of construction, and*
- *all pile driving activity may only occur between the hours of 7:00 am and 5:00 pm.*

Seconded by Mr. Plote.

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Jim Pomillo, representing Samsung Solar Energy 2, had an in-depth discussion with the Committee regarding the significant impacts of the Hearing Officer's setback recommendations and the Committee's amendments to those setback recommendations. Mr. Faivre recommended sending the matter to the County Board, and addressing the issues at that level.

The committee voted on the amendment to include the two new conditions, and the vote carried unanimously.

Mr. Frieders moved to amend the Hearing Officer's recommendation to change the recommended 500-foot setback from a residence to 400 feet from a residence, seconded by Mr. Plote. A roll call vote was held, and the motion carried five (5) yes to two (2: Osland, West) no.

A roll call vote was held on the amended motion to recommend approval of the petition, and the motion carried six (6) yes to one (1: West) no.

Other Business –
none

Adjournment

Mr. Roman moved to adjourn the meeting, seconded by Mr. Osland, and the motion carried unanimously.

Respectfully submitted,

Steve Faivre
Chairman, Planning and Zoning Committee

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