

## Planning & Zoning Commission Meeting

December 16, 2024

7:01 pm – Meeting Called to Order by Ron Cooper

Meeting was called to order and Pledge of Allegiance done and roll taken

Those in attendance included:

Planning Commission Chair – Jake (Ronald) Cooper

Planning Commission members – Mike Sweeney, Mike Homerding, Pat Lippold

Absent was Brian Anderson

Township Clerk Steve Grebner

Guests included Steve Gengler, Doug Westphal, Amy Westphal, Michael Brzoska, Nick Bellone (Engineer) and Tom Ryan (Project Mgr) (both New Leaf Energy Reps)

Presentation by Tom Ryan and Nick Bellone from Green Leaf Energy regarding the proposed request for Special Use designation for the Property on Ament Road AKA Ament Road Solar Farm 1 LLC. The purpose of this meeting was to review the responses by New Leaf to the initial questions posed by the Planning Commission. (see attachment “A”). The reps were very forthcoming in their discussion and had asked if there were any additional questions prior to the meeting so they could come prepared. Clerk Grebner had provided those questions to them (regarding Fire Dept Concerns and surface water concerns). The reps came prepared to further explain their responses as well as address the new questions. The members of the commission had read the responses and had some additional follow up questions regarding the Tile Study. They informed the commission the preliminary study would be fleshed out after approval as it is expensive but, the requirements of the Special use permit states they must comply or the SUP will be either amended or revoked. The Commission stated that the concerns about repair of tile both during construction and de-commissioning are well documented, and they informed the commission that any repairs must be done in a timely manner or as stated above the SUP may be revoked. They will provide an estimate of the cost of a replacement of the sub surface tile to provide a starting point for a “bond” to ensure moneys are available to repair any sub surface tile damage.

Greater discussion regarding SURFACE drainage occurred and it was agreed the New Leaf Reps would entertain some form of Surface detention protocols to ensure erosion is kept at a minimum. They will respond back to us prior to our next meeting with their responses. The New Leaf Representatives asked I we had any suggestions as a commission and we provided ideas such as detention ponds and buffers to slow the flow of surface water on those occasions where we have downpours. They stated they were open to that idea and would go back to their experts to discuss and get back to us.

Question of Fire Dept concerns was raised by Chairman Cooper, and Nic Bellone stated he had just spoken to the BKFD Fire Marshall earlier that day and he stated they would need a Knox Box, and training on power cut off etc. Other than that, he felt there was no issue with the Fire Dept regarding this SUP.

Question was asked about how taxes get paid and they clarified that the Land Owner would pay on the parcel W/O solar panels but they would pay property taxes on the portion with the panels and at a higher rate based upon the amount of power generated. (they showed the estimated 20 year tax revenue). Comment was made that it isn't much higher than property tax on a high dollar home in White Tail Ridge.

It was asked how does the property owner get paid and it was stated annually based upon the anniversary of the project initiation. It was asked if there is a factor to increase payment over the term of the leases (1 20 year and 4 5year leases that may be exercised). They said yes there is an "escalator" condition in the contract that allows for an increase in payment year over year.

It was decided that there would be no need to vote on recommendation to Full Township Board as the original recommendation still stands.

Minutes of last meeting (Nov 2024) were read. Vote was called to approve the amended minutes. Motion made by Mike Homerding and seconded by Mike Sweeney. Motion was approved unanimously. (Brian Anderson Absent)

Motion to approve 2025 Planning and Zoning Commission Meeting dates was made. Mike Homerding Moved and Pat Lippold Seconded. Discussion ensued regarding two of the dates (April 14<sup>th</sup> and July 14<sup>th</sup>) – Due to the way the calendar falls those two months meetings will be held on the Second Monday, as that will be the day before the 3<sup>rd</sup> Tuesday for the Township Monthly Meeting. It was also stated that as per protocol, if there is no pressing business, the meeting can be cancelled 48 hours in advance. After hearing no other discussion, Chairman Cooper called for a vote and the Motion carried unanimously. (Brian Anderson Absent)

Motion to adjourn was made by Mike Sweeney, seconded by Mike Homerding and passed unanimously.

Meeting Adjourned 8:15 pm

Next scheduled meeting is January 20th 2025 at 7:00 PM at township building.

Respectfully submitted by Steve Grebner Kendall Township Clerk

Attachment "A"

December 3, 2024

VIA EMAIL

Kendall Township

c/o Steve Grebner, Clerk

sgrebner@kendalltwp.com

RE: Ament Solar 1, LLC's Response to Kendall Township

Dear Members of the Kendall Township Board,

New Leaf Energy / Ament Solar 1, LLC (the Applicant) is in receipt of the Township's emailed plan review comments from November 22, 2024. In its correspondence, the Township listed three (3) proposed conditions that the Township's Planning Commission recommended after New Leaf representatives presented about the proposed 5-megawatt commercial solar energy facility to be located on Ament Road (Kendall County Petition 24-30). The Township's correspondence also included certain questions, issues, and requests from the Township Board. In the Township's correspondence, it requested that the County table any decision on Petition 24-30 until the Township's comments are resolved.

In the hopes of receiving a positive recommendation from the Township, the Applicant hereby requests that the County continue its upcoming public hearings to January 22, 2025 (for the Regional Planning Commission) and January 27, 2025 (for the County's Zoning Board of Appeals). As for the Township Planning Commission's proposed conditions and the Township Board's questions, issues, and requests, the Applicant responds as follows:

Township Planning Commission's Proposed Conditions

1. The entity will maintain and repair the subsurface drainage throughout the entirety of the lease to be repaired within the timeframe indicated in the special use permit (sup). The entity will commit to, as part of their maintenance schedule, perform a physical inspection of the property to include drain tile observation for damage and necessary repair. The surrounding property owners shall be provided a copy of the existing drain tile survey of subject property as well as any changes made as part of

this project.

The Applicant agrees to comply with Section 36-282(17)(o) of the Kendall County Zoning Ordinance, which requires the Applicant to repair or pay for repairs to damages to the drainage system within a reasonable time after construction. A

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copy of Kendall County's Solar and Wind Ordinance is enclosed herewith for the Township's reference. See Zoning Ord., §36-282(17)(o) ("[t]he facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial solar energy system within a reasonable time after construction of the commercial solar energy facility is complete. The specific time shall be set in the special use permit.").

The Applicant will repair any damaged drain tiles in the project limits prior to commercial operation of the solar farm. The Applicant will also repair any damaged drain tile in the project limits that occurs after decommissioning.

There is not anticipated to be any damaged drain tile while the project is operating, as there will be no site activities other than power generation and maintenance. However, the applicant agrees to repair any drain tile malfunctions that occur within the project limits during the project's operational lifespan. As for a drain tile study, the Applicant provided a preliminary drain tile study to the County. A copy is enclosed for the Township's reference. The Applicant agrees to provide a copy of the final drain tile study to the adjacent property owners after the study is completed. The Applicant also agrees to provide a copy of the final drain tile study to the Township.

2. We would request that there be a subsurface drainage repair bond to ensure there are sufficient funds available for any required repair of materials and labor at the time of agreement. All replacement tile shall equal to or greater than its current flow.

As set forth above, the Applicant agrees to comply with Section 36-282(17)(o) of the County's Zoning Ordinance, which requires that damaged drain tile be repaired within a reasonable time after the construction of the solar farm.

Additionally, County staff has recommended several conditions for the special use (the Conditions). A copy of the County's Staff Report for Petition 24-30 is enclosed herewith. The Applicant agrees to comply with the Conditions, including but not limited to Condition #10, which requires that all conditions and restrictions be followed or the special use permit could be amended or revoked. See Staff Report, p. 8, Condition #10 ("Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.")

3. The planning and zoning committee also recommends as part of the comprehensive MONITORING AND MANAGEMENT PLAN AMENT ROAD SOLAR FARM – KENDALL COUNTY (section 1-6) specific attention to the noxious weeds including but not limited to water hemp, and Giant Ragweed.

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The Applicant agrees to comply with Section 36-282(17)(m) of the County's Zoning Ordinance, which requires the Applicant to install vegetative groundcover consistent with state law and IDNR guidelines. See Zoning Ord., §36-282(17)(m) ("A commercial solar energy facility owner shall plant, establish, and maintain for the life of the facility vegetative ground cover consistent with State law and the guidelines of the Illinois Department of Natural Resources' vegetative management plans. The vegetation management plan shall be required at the time of application submittal.")

The Applicant also agrees to comply with the County's proposed Condition #1, which requires that the site be developed in accordance with the submitted site plan and vegetative management plan. See County's Staff Report, p. 7, Condition #1. In this case, the Applicant's Management and Monitoring (M&M) plan (enclosed for the Township's reference) states that:

- "Mow[ing] (including weed whipping) the planted areas to a height of 8-12 inches, 3 times during the early growing season or as needed to control non-native and invasive annual species." See M&M Plan, p. 6.

- “As the planted areas mature... the plant communities will stabilize and be effectively managed through a reduced schedule of spot mowing, selective herbicide application, and hand pulling as necessary.” See M&M Plan, p. 7.

To further satisfy the concerns of the Township in regards to the noxious weeds of water hemp and giant ragweed, the Applicant modified Section 2.4 of its Monitoring and Management Plan to state:

- “At the end of each growing season, none of the three most dominant species within the planted areas shall be non-native, invasive, or noxious weed species, including but not limited to: Giant and Common Ragweed (*Ambrosia trifida* & *artemisiifolia*), Wild Carrot (*Daucus carota*), Purple Loosestrife (*Lythrum salicaria*), Teasel (*Dipsacus* spp.), Reed Canary Grass (*Phalaris arundinacea*), Sweet Clover (*Melilotus* spp.), Common Buckthorn (*Rhamnus cathartica*), Kentucky Blue Grass (*Poa pratensis*), Thistle (*Cirsium* spp.), Honeysuckle (*Lonicera* sp.), Common Reed (*Phragmites australis*), Sandbar Willow (*Salix interior*), and Water Hemp (*Amaranthus tuberculatus*.” See M&M Plan, pp. 5-6.

The Applicant also agrees to comply with the County’s proposed Condition #9, which requires all laws to be followed, including noxious weed laws. See County’s Staff Report, p. 8, Condition #9 (“The property owner and operator of the use allowed by this special use permit shall follow all applicable Federal, State, and

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Local laws related to the operation of this type of use.” Noxious weed laws are currently in effect that would require the removal of water hemp and giant ragweed.

The Applicant also agrees to comply with the County’s proposed Condition #10, which conditions the special use permit on compliance with its terms and conditions. See County’s Staff Report, p. 8, Condition #10 (“Failure to comply with one or more of the above conditions or restrictions could result in the

amendment or revocation of the special use permit.”).

#### Township Board’s Questions, Issues, and Requests

4. The Township Board voiced concerns as to whether the Recommendations would apply to “ANY AND ALL future owners of the subject property.”

The Applicant agrees to comply with the County’s proposed Condition #12, which treats the approval as a covenant running with the land and binding on successors, heirs and assigns. See County’s Staff Report, p. 10, Condition #12. (“This special use permit and variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.”)

5. That it appears specifically and in writing that any fiduciary instrument (i.e. Bond) be attached to the Title and or abstract of the Subject Property presently identified as AMENT ROAD SOLAR FARM. In so much as that responsibility will pass to any and all owners until the end of the deconstruction phase of the project.

The Applicant agrees to comply with Section 36-282(17)(g) of the County’s Zoning Ordinance, which requires the Applicant to comply with its decommissioning obligations under its Agricultural Impact Mitigation Agreement. See Zoning Ord., §36-282(17)(g) (“The County shall not require standards for construction, decommissioning, or deconstruction of a commercial solar energy system or related financial assurances to be more restrictive than agricultural impact mitigation agreement set in State law. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by the agricultural impact mitigation agreement, minus the salvage value of the project. A copy of the agricultural impact mitigation agreement shall be submitted with the application materials.”).

A copy of the AIMA that the Applicant submitted to the County is enclosed for the Township’s reference. As set forth in the AIMA, if the Applicant does not decommission the site, then the County may draw on the decommissioning

bond, which is \$425,897.37. See Decommissioning Estimate, p. 6; see also AIMA p. 12, §17(F) (“Upon Abandonment, the County may take all appropriate actions for Deconstruction including drawing upon the Financial Assurance.”). There would be no need to record the bond on the subject property, as it will be provided to the County.

6. That the concerns expressed above regarding the subsoil drainage issues be specifically addressed in any SUP, and failure to do so will result in a violation of the terms of the agreement and a monetary penalty will be applied.

The Applicant agrees to comply with Section 36-282(17)(o) of the County’s Zoning Ordinance, which requires the Applicant to repair or pay for repairs to damages to the drainage system within a reasonable time after construction.

The Applicant also agrees to comply with the County’s proposed Condition #10, which conditions the special use permit on compliance with its terms and conditions. See County’s Staff Report, p. 8, Condition #10.

The Applicant also agrees to comply with the County’s proposed Condition #12, which treats the approval as a covenant running with the land and binding on successors, heirs and assigns. See County’s Staff Report, p. 9, Condition #12.

(“This special use permit and variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.”).

7. That the concerns regarding the noxious weeds shall be specifically spelled out in the SUP and future agreements.

See Response to Item #3, above.

8. It is therefore the position of the Kendall Township Board that no action to approve this Project should go forward until the local body of government in which the project resides has these questions answered to their satisfaction.

The Applicant believes that the above responses satisfy the Township’s questions, issues, and requests. The Applicant is available to answer questions



at the Kendall Township Planning Commission meeting on December 16th and Board meeting on December 17th. Given that the Township Board will not have its recommendation for Petition 24-30 before the RPC or ZBA dates (on December 11th and December 16th, respectively), the Applicant agrees to continue the County's public hearings to January 22, 2025 (for the Regional Planning Commission) and January 27, 2025 (for the County's Zoning Board of Appeals).

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9. In addition there was a request to the NewLeaf Representatives for contact information for non participating property owners for other completed projects that is as of yet outstanding.

The contact information of non-participating parcels surrounding previous New Leaf Energy projects is publicly available. New Leaf Energy can supply information pertaining to previous projects if needed. New Leaf representatives are available to answer questions about their projects at the upcoming meetings.

10. The Next Kendall Township Planning Commission Meeting is presently scheduled for December 16th 2024 at 7:00 PM and the next full board meeting will be Tuesday December 17th at 7:30 PM.

Thank you – a New Leaf representative will plan to attend and answer any questions in hopes of receiving a positive recommendation from the Township.

Sincerely,

Tom Ryan

Senior Project Developer, New Leaf Energy

Cc: Matt Asselmeier, AICP, CFM - [masselmeier@kendallcountyil.gov](mailto:masselmeier@kendallcountyil.gov)