



Zoning Board of Appeals
Gregory Koeppen
Chair

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May 22, 2024

TO: Gregory Koeppen, Chair
Lake County Zoning Board of Appeals

FROM: Frank Olson, Senior Planner
Lake County Department of Planning, Building and Development

CASE NO: CUP-000976-2024

REQUESTED ACTION: Conditional Use Permit to establish a Commercial Solar Energy System.

HEARING DATE: May 29, 2024

GENERAL INFORMATION

OWNERS: Thomas and Daniel Malapanes

OF PARCELS: One

SIZE: 24.8 Acres, per Lake County Maps Online

LOCATION: 15333 W Illinois Route 173, Zion, Illinois

PIN: 03-15-400-021

EXISTING ZONING: Rural Estate (RE)

EXISTING LAND USE: Agricultural (field crops)

PROPOSED LAND USE: Commercial Solar Energy System

SURROUNDING ZONING / LAND USE

NORTH: Right of Way, Incorporated Wadsworth, Agricultural (AG) / W IL Route 173, Commercial/Residential, Agricultural/Residential

SOUTH: Rural Estate (RE) / Residential

EAST: Rural Estate (RE) / Residential and Vacant

WEST: Estate (E) / Railway and Agricultural

COMPREHENSIVE PLANS

LAKE COUNTY: Retail/Commercial

MUNICIPALITIES
WITHIN 1 ½ MILES: Village of Wadsworth: 1-Acre Residential

DETAILS OF REQUEST

ACCESS: The subject property is accessed from W IL Route 173.

CONFORMING LOT: The subject property is a conforming zoning lot in the RE zoning district.

WETLAND/FLOODPLAIN: The subject property has wetlands dispersed along the western, southern, and northeastern portions of the property. There is no existing floodplain on the subject property.

SEWER AND WELL: The subject property does not have any water or sewer service. Neither service is necessary to support the proposed use.

LAKE COUNTY AND EXTERNAL AGENCY COMMENTS

McHenry – Lake County Soil & Water Conservation District (SWCD)

- The SWCD District Board of Directors recommends that areas between panels and within the buffers be planted with a native prairie mix to help increase water infiltration and reduce runoff from the site. It is recommended that a planting and maintenance plan be developed with the petitioner/landowner to ensure that noxious weeds are controlled, and native plantings are properly installed and managed. Further, the petitioner is encouraged to add pollinator species to this planting plan.
- Lake County Planning, Building and Development staff are in receipt of the applicant's Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

Illinois Department of Agriculture

- The applicant has submitted a copy of an Agricultural Impact Mitigation Agreement executed December of 2023.

Illinois Department of Natural Resources

- The Illinois Natural Heritage Database shows the following protected resources may be in the vicinity of the project location:
 - Blanding's Turtle (*Emydoidea blandingii*)
 - Black Tern (*Chlidonias niger*)
 - Wadsworth Prairie Nature Preserve
 - Wadsworth Prairie
- Due to the project scope and proximity to protected resources, the Department recommends the following actions be taken to avoid adversely impacting listed species and protected natural area in the vicinity of the project:
 - **Blanding's Turtle**
 - A habitat assessment should be conducted to determine whether onsite wetlands present suitable habitat for Blanding's Turtles.
 - Survey results and methods should be forwarded to the Department for review and concurrence.
 - If suitable habitat is present, the Department recommends that a presence/absence survey for the species be conducted.
 - Alternatively, the applicant may choose to apply for Incidental Take Authorization of the species.
 - If the above recommendations are adopted, the Department has determined that impacts to these protected resources are unlikely.
- The Department has determined impacts to other protected natural resources in the vicinity of the project location are also unlikely.

Lake County Engineering Division - Comments by Andrew Heuser

- The Engineering Division has no objection to this Conditional Use Permit.

Lake County Building Division – Comments by Ieva Donev

- The Building Division has no objection to the Conditional Use Permit.

ADDITIONAL COMMENTS

- Lake County is subject to *Illinois State Statute 55 ILCS 5/5-12020*, which enumerates the most restrictive standards a county may require for the establishment of commercial solar and wind energy facilities. A County may elect not to adopt such standards but in no case shall a County adopt a standard more restrictive than those set forth in the statute. Further, per the statute, conditional use permit applications shall be approved if found to be in compliance with the statutory standards.
- *Illinois State Statute 55 ILCS 5/5-12020(h)* states that a county may not adopt zoning regulations that disallow, permanently or temporarily, commercial solar energy facilities from being developed or operated in any district zoned to allow agricultural or industrial uses. The Lake County Code allows for agricultural uses in any zoning district; therefore, the use of a commercial solar energy facility would be allowed on the subject property in the Rural Estate zoning district.
- Staff conducted a Site Capacity and Site Plan review and have determined the proposed project meets the standards required for the establishment of a Commercial Solar Energy System on the subject property.

RECOMMENDATION FOR CONDITIONAL USE PERMIT

Staff recommends approval of the proposed Conditional Use Permit. Staff finds the request will meet the criteria for a Conditional Use Permit (CUP) in the following manner:

Conditional Use Approval Criteria – Section 151.112 (WW)

Fencing

Commercial Solar Energy Systems shall be enclosed with an approved fence that restricts access to the public. Such fencing shall, at a minimum, encompass the entire system's facility, contain a locking mechanism, and be subject to the fence regulations of Lake County Code Section 151.113(L)(1). The maximum height of fences surrounding Commercial Solar Energy Systems shall be eight feet:

Comment:

The applicant will be enclosing the proposed Commercial Solar Energy System with an approved 7-foot fence.

Height

The total height of the panels shall not exceed 20 feet, as measured from grade to the highest point of the solar arrays when the Solar Energy Facility's arrays are at full tilt:

Comment:

The maximum height of the proposed solar arrays will not exceed 20 feet.

Location and Setbacks

Commercial solar energy systems must meet the setback requirements for a principal structure in the underlying zoning district or be waived by the written consent of the owner(s) of each affected nonparticipating property:

Comment:

The proposed Commercial Solar Energy System complies with all Lake County Code setback requirements.

Decommissioning Plan and Assurances

The applicant (or owner, if different from applicant) must submit a decommissioning plan with cost estimation to the County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application.

Comment:

A decommissioning plan and calculated costs have been provided by the applicants.