

CITY OF ELKHORN
Joint Extraterritorial Zoning Committee Meeting
City of Elkhorn and Town of LaFayette
Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin
December 14, 2023

Meeting of the Joint Extraterritorial Zoning Committee was called to order at 6:00 p.m. followed by Roll Call.

ROLL CALL AND ESTABLISH A QUORUM

Present: City of Elkhorn: Tom Stotko, Duane Wuttke, James Boardman
Town of LaFayette: Sharilyn Smage, Derek Steffen
City of Elkhorn: Zoning Administrator: Allison Schwark, Legal Counsel: Chris Gerary
Absent: Town of LaFayette: Tim Zalenski
Also Present: City of Elkhorn: Ken Meinel, Adam Swann, Ward Phillips, Matt Lindstrom
Visitors: Steve Smith-Applicant, Seamus Fitzgerald-OneEnergy, Peter Murphy-OneEnergy, Penny Marsh, Winston Marsh, Other unidentified persons

NAME CHAIRPERSON

Motion (Wuttke/Stotko) nominated Member Boardman as Chairperson. Motion carried by the majority present.

PUBLIC HEARING

Motion (Wuttke/Steffen) to adjourn at 6:08 p.m. into the Public Hearing for the Conditional Use Permit request submitted by Peter Murphy, OneEnergy Development LLC, applicant, to allow a solar energy generation project with continued agricultural use outside of the project area for property located a N6164 Cobb Road (Tax Key KLF1900006), Town of La Fayette. Motion carried by the majority present. Chairman Boardman asked if anyone wished to be heard.

Penny Marsh, W4684 Potter Road, Town of LaFayette, said her property is across the field from the location of the proposed solar farm project. She submitted a letter of objection to the location of a solar farm on Cobb Road which is dated December 6, 2023. The letter included an attached list of signatures of area property owners within the Town of LaFayette objecting to the project without a clear understanding among the residents the impact of the risks the environment, property values, and personal health. Mrs. Marsh briefly explained that the letter submitted included information regarding various studies that show property values are negatively impacted based on how close the property is to a solar farm. The proposed project is located on a 30 acre portion of the property on Cobb Road, which is not governed by the Federal EPA standards, and a NEPA study is not required. The neighboring property owners are concerned about how the ETZ Committee will ensure there will be no impact to their environment as a result of the solar farm project. The letter generally describes the environmental risks of allowing solar farms to be constructed on rural properties. If the solar panels could not stand up to natural disasters and break there is potential for ground water contamination with cadmium and lead found in the panels. If battery failure occurs there is potential for lithium to be released into the environment. There is no information received as to how these risks are being addressed and/or mitigated. Once heavy metals are in the soil, there is potential for them to remain there, absent significant remedial action. Residual contamination from the project would result in higher levels of contaminants in food consumed. Currently, there is a very serious recall across the country for high levels of lead in apple sauce pouches. With area residents depending upon well water for drinking water, which is at a high risk in the event of heavy metal contamination. These vary same contaminants could end up in the waters because the creek runs into Sugar Creek which runs into the Fox River which ultimately flows into Lake Michigan. There is also concern for endangered species and health risks to residents living near a solar farm. She and the area property owners are requesting that an environmental impact study be undertaken prior to any development. Also included in her information submittal was a second letter dated December 4, 2023 from a friend who has experienced a similar project and describing the environmental effects on her community.

CITY OF ELKHORN
Joint Extraterritorial Zoning Committee Meeting
City of Elkhorn and Town of LaFayette
Council Chambers, 311 Seymour Ct., Elkhorn, Wisconsin
December 14, 2023
Page 2

Peter Murphy, OneEnergy, present and provide information regarding the solar farm project at this time. Peter Murphy, OneEnergy, presented the Nyssa Solar Project and Conditional Use Permit requested by OneEnergy Development LLC for the solar energy generation project with continued agricultural use outside of the project area proposed to be located at N6164 Cobb Road (Tax Key No. KFL1900006), Town of LaFayette. He continued by providing background information on the Nyssa Solar Project that is a 6 Megawatt solar generation facility. OneEnergy Development LLC, applicant, will develop, engineer, and construct the project. OneEnergy will complete all environmental studies and surveys required to construct the Nyssa Solar Project including: wetland delineation, Phase I Environmental Site Assessment, soil analysis, and endangered resources review. This project is not expected to impact natural resources. Mr. Murphy explained the general procedure for locating properties suitable for the locating and construct a solar energy generation project such as this project. He said the proper location has to have the following requirements: 1) existing electric infrastructure; 2) site suitability; and 3) interested land owner. Mr. Murphy continued by providing the scope of the project which includes: General land use description, description of equipment, scale map of the project site, landscaping, wetland and drainage facilities, construction schedule, operations and vehicular traffic description, decommissioning and removal and some additional information regarding the OneEnergy, applicant. OneEnergy intends to start construction on the project in the Spring of 2024, pending receipt of all required permits, approvals, and availability of key equipment for the project. Construction of the project is expected to be about 4-6 months. The project is expected to be constructed and operational by the end of 2025. Once completed, the project will generate local power for local customers within the WE Energies' service territory. Discussion.

Chairman Boardman asked if anyone else wished to be heard. No one else wished to be heard at this time. Chairman Boardman asked three times if anyone wished to be heard. No one else wished to be heard. Motion (Stotko/Wuttke) to close the public hearing. Motion carried by the majority present. The public hearing was closed at 6:50 pm.

DISCUSSION & RECOMMENDATION/CUP/ONE ENERGY

The Zoning Administrator provided the Staff Report dated November 20, 2023. **Project History:** The applicant is requesting a conditional use permit for the Nyssa Solar Project which is a proposed 6 Megawatt solar generation facility. OneEnergy Development, LLC will develop, engineer, and construct the project. The applicant will complete all environmental studies and surveys required to construct the project including the following: wetland delineation, Phase 1 Environmental Site Assessment, soil analysis, and endangered resources review. The project is not expected to impact natural resources. The Applicant intends to start construction on the project in the spring of 2024, pending receipt of all required permits and approvals and availability of key equipment for the project. Construction of the project is expected to take approximately 4-6 months. If construction starts in spring of 2024, the project is expected to be completed by the end of 2024. If construction is delayed due to key equipment availability or other issues until spring of 2025, the project is expected to be constructed and operational by the end of 2025. Once complete, the project will generate local power for local customers within We Energies' service territory. **Staff Recommendations:** 1) Staff recommends that the Joint ETZ Committee **APPROVE** the Conditional Use Permit for a Solar Energy generation project with continued agricultural use outside of project area with the following conditions: a) The project shall be developed in accordance with the plan of operations. Any deviation from the approved plans shall require zoning administrator and/or Committee approval. b) All additional permits be applied for and approved. c) The project is not expandable. d) Upon completion, if evaluation of sight lines from residences proves a need for screening, applicant will follow through. e) Project site must be kept in a neat and orderly fashion and shall be mowed, and landscaping maintained at all times and shall not become overgrown with weeds or vegetation. f) No additional outside storage will be permitted. g) If the solar panel is damaged or abandoned or of no use it shall be removed from site within 30 days. The Zoning Administrator said that the applicant covered the scope of the project, however, she would add an additional condition that the company leasing it be held responsible for land decommissioning and removal

CITY OF ELKHORN
Joint Extraterritorial Zoning Committee Meeting
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December 14, 2023
Page 3

Motion (Wuttke/Stotko) to recommend to the Elkhorn City Council to approve the Conditional Use Permit requested by OneEnergy Development LLC (Peter Murphy), applicant, to allow the solar energy generation project with continued agricultural use outside of the project area for property located at N6164 Cobb Road, Town of LaFayette, subject to the conditions of the City of Elkhorn Zoning Administrator's Staff Report dated November 20, 2023 and the additional condition that the OneEnergy Development LLC, applicant, leasing same property be responsible for the land decommissioning and removal. Roll Call Vote. Boardman-No; Stotko-No; Wuttke Yes; Smage-Yes; Steffen-Yes. Motion carried unanimously 3-2.

ADJOURNMENT

Motion (Wuttke/Stotko) to adjourn at 7:00 p.m. Motion carried by the majority present.

Shari McKinney
City of Elkhorn
Plan Commission Secretary