
VILLAGE OF SUGAR GROVE BOARD REPORT

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES

FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
DANIELLE MARION, PLANNING & ZONING ADMINISTRATOR

SUBJECT: ORDINANCE: SPECIAL USE PERMIT FOR SOLAR GARDEN ENERGY SYSTEM, COMMUNITY SOLAR 1 (AURORA AIRPORT)

AGENDA: APRIL 16, 2024 VILLAGE BOARD MEETING

DATE: APRIL 10, 2024

ISSUE

Shall the Village Board grant a Special Use Permit for a solar garden energy system on a portion of the Aurora Airport property, hereinafter referred to as Community Solar-1.

DISCUSSION

The Village Board discussed the requested Special Use Permit at its last meeting on April 2, 2024 and there were concerns about the application submittal.

The Village Board discussed the matter at its March 5th meeting and heard comments from the public as well as the SunCode, LLC ("Applicant"). The Village Board engaged in further discussion on a number of topics that were raised during this comment period. Substantive topics included concerns about glare, questions pertaining to whether or not there would be changes to the existing electric distribution system, the security fence materials, the burial of utilities (both on and off-site), the proposed service drive, and the Applicant's decommissioning plan. In addition, the Village Board considered a number of procedural concerns that were raised by members of the public, including whether the application was properly completed and whether adequate notice was provided.

A summary of those discussions and the requested staff follow-up is provided below:

I. Substantive Considerations.

- a. **Glare.** The public, specifically pilots using the Aurora Airport, expressed concerns about glare that may be created by the solar panels. The Village's Zoning Ordinance requires that a glare study be conducted in accordance with FAA requirements. This study has been completed by the Applicant. The findings indicate that there are expected to be intermittent periods of glare, however, not to the level that would cause the FAA to modify or reject the proposed project. The Applicant still must submit its application to the FAA, who will approve or deny the glare study.

In addition to FAA requirements, the Village's Zoning Ordinance also requires the use of anti-reflective materials on solar panels located in the vicinity of the airport. The Applicant's application material indicate that the panels are non-reflective. Moreover, the tracking

feature of the solar panels also serves to reduce glare by reducing the angle of incidence from the sun's rays. That is, the more perpendicular the panels are to the sun's rays the less opportunities for glare are created.

In light of the foregoing, it is staff's opinion that the Applicant has properly mitigated any glare concerns, pending final FAA approval.

- b. **Security fence.** The Applicant proposes an eight-foot-tall chain link security fence in accordance with the Village's Zoning Ordinance. The Zoning Ordinance does not specify the design or materials for the security fence. Accordingly, staff finds that the proposed fence is in compliance with current Village requirements.
- c. **Utility burial.** The applicant agreed to bury all on-site electric lines as required. The existing utility poles along Dugan Road will remain. Overhead utilities, including those along property lines and roadways, are required to be buried. But this requirement applies to subdivision of property. The subject property is not being subdivided.
- d. **Service drive.** The Applicant revised the site development plans to indicate the proposed service drive to serve the solar garden energy system will be paved.
- e. **Decommissioning plan.** The Applicant provided a decommissioning plan as required by the Village's Zoning Ordinance. It describes what the operator will be expected to do with the solar panels (recycled), the support structures (recycled), electrical wiring (recycled), security fence (recycled), and the restoration of the ground, including soil and erosion control practices during the decommissioning activities. The decommissioning plan is backed by a financial guarantee in a form and amount approved by the Village Board prior to issuing the building permit for construction of the solar facility.

The Village Board questioned how it would determine when the Applicant's decommissioning obligations are triggered. While the Village will be, in part, dependent upon obtaining this information from the City of Aurora, an additional condition has been added to the Special Use Permit obligating the owner/operator to inform the Village if its operations cease for a period of more than twelve (12) months. In addition, should the owner/operator fail to respond to an inquiry by the Village within the specified timeframe regarding the status of its operations, the Village will be authorized to draw upon the security and to commence decommissioning.

In addition, language was added requiring written notice to the Village upon the solar garden energy system's transfer to a new owner/operator and establishing that any successor owner/operator must post new security before the prior owner/operator's security is released.

II. Procedural Considerations.

- a. **The process.** A number of questions were raised concerning the process for constructing the solar garden energy system. The approval of the Special Use Permit is the first step in the process. If the Special Use Permit is granted, the Applicant then must obtain FAA approval of the development and the glare study. Once approvals are received (and prior to the
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issuance of a building permit) the Applicant would then be required to perform a drain tile investigation, provide geotechnical information for footing and foundations, and provide the Village with a financial guarantee to cover the future decommissioning costs (as determined by the Village). Zoning approval by the Village is necessary for the Applicant to submit the project to the State for approval of the solar energy credits.

- b. ***Completeness of the application.*** All the required information for submitting an application for a Special Use Permit for a solar garden energy system has been provided. The application has been reviewed by Village staff and is deemed complete.
- c. ***Notification process.*** All the required notifications were satisfactorily completed in accordance with state statute and the Zoning Ordinance: sign(s) were posted, the public hearing notice was published in a newspaper of general circulation, and written notice was mailed to all property owners within 250-feet of the Subject Property. The Subject Property is a lot of record within the boundaries of the Aurora Municipal Airport. State statutes do not require the owner of property adjacent the Airport but more than 250-feet from the Subject Property to receive written notice.
- d. ***Applicant identity.*** Sun Code, LLC is the Applicant. As is common with many developments, Sun Code has formed or will be forming additional LLCs for this project. The public also raised questions regarding the different names in contract documents between the applicant and the City of Aurora. Those arrangements are not in the Village's purview. The City of Aurora is the land owner and provided consent to the Applicant to make the application for a Special Use Permit. The Village attorney reviewed the applicant information and determined there is no procedural defect.
- e. ***Applicant licensure status.*** While some professions, such as barbers, engineers, plumbers, mortgage brokers, architects, and roofers, are required to be licensed to do business in the State of Illinois, solar energy providers are not one of them.

There was additional discussion about requiring sidewalks or bike paths across the frontage of the Subject Property. Ordinarily those improvements are associated with subdivision of property. The applicant is not subdividing the property, so the Village cannot invoke the subdivision requirements in this instance.

The Planning Commission/ Zoning Board of Appeals held the requisite public hearing and all interested persons were provided the opportunity to be heard. The proposed solar garden energy system complies with all of the Village's zoning requirements. The Planning Commission/Zoning Board of Appeals recommended approval of the PUD amendment, subject to certain conditions and restrictions which are incorporated in the attached Ordinance. Village staff recommends adding development of the site in accordance with the approved site development plans and material and equipment specifications, and, prohibiting battery storage facilities on the site, as additional conditions of approval.

ATTACHMENTS

- Ordinance Granting a Special Use Permit for a Solar Garden Energy System (Aurora Airport, Community Solar-1), exhibits are attached separately

RECOMMENDATION

That the Village Board approve the Ordinance Granting a Special Use Permit for a Solar Garden Energy System (Aurora Airport, Community Solar-1).



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

ORDINANCE NO. 2024-0416__

**An Ordinance Granting a Special Use Permit for a Solar Garden Energy System
(Aurora Airport, Community Solar-1)**

Adopted by the Board of Trustees and President of the Village of Sugar Grove
this 16th day of April 2024

Published in pamphlet form by authority of the Board of Trustees of the Village of Sugar Grove
this 16th day of April 2024

VILLAGE OF SUGAR GROVE

ORDINANCE NO. 2024-0416_

**An Ordinance Granting a Special Use Permit for a Solar Garden Energy System
(Aurora Airport, Community Solar-1)**

WHEREAS, the Village of Sugar Grove is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and accordingly, acts pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, SunCode LLC (“Applicant”) is duly authorized to make application for a Special Use Permit for a solar garden energy system on the property generally located on the west side of Dugan Road between Scott Road and Wheeler Road and legally described in **Exhibit A**, attached hereto and incorporated herein by reference (“Subject Property”); and,

WHEREAS, the Applicant has made application to request to grant a Special Use Permit for a solar garden energy system on the Subject Property; and,

WHEREAS, the proposed solar garden energy system, also known as Community Solar-1, will occupy 28.1 acres of the Subject Property and consists of 10,052 solar panels that will track the sun across the sky and a small shed-like building constructed to house the inverter and other necessary equipment which will be surrounded by an eight-foot-tall security fence; and,

WHEREAS, after due notice, the Planning Commission/Zoning Board of Appeals held a public hearing on February 21, 2024, to consider the request to grant a Special Use Permit for a ground-mounted solar energy system and objectors were present and heard; and,

WHEREAS, the Planning Commission/Zoning Board of Appeals made its findings and recommendation in Planning Commission Recommendation PC24-02 that the Village Board grant the Special Use Permit, subject to certain conditions; and,

WHEREAS, the Village Board has found that the requested Special Use Permit is in compliance with the standards as set forth in the Zoning Ordinance and concurs with the Planning Commission’s Recommendation.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

SECTION ONE: RECITALS

The foregoing recitals shall be and are hereby incorporated as findings of fact as if recitals were fully set forth herein.

SECTION TWO: SPECIAL USE PERMIT

That a Special Use Permit for a solar garden energy system is hereby granted on the Subject Property generally located on the west side of Dugan Road between Scott Road and Wheeler Road and

legally described in **Exhibit A**, attached hereto and made a part hereof by this reference, subject to the following conditions:

1. Applicant must obtain FAA approval for the solar garden energy system, including satisfying glare requirements.
2. The owner/operator of the solar facility shall notify the Village, in writing, of any changes of ownership during the life of the project. Following any such transfer and as a condition of the release of any existing security, the new owner/operator must post replacement security in accordance with Village Code Section B.1.a.
3. The owner/operator of the solar facility shall notify the Village if its operations on the Subject Property cease. In addition, should the owner/operator fail to respond to an inquiry by the Village regarding the status of its operations within 30 days of the date of said inquiry, the Village shall be authorized, but not obligated, to draw upon the security deposit and to commence decommissioning.
4. Applicant shall prepare and provide a drain tile investigation, which must be approved by the Village prior to issuing the building permit.
5. Applicant shall perform a soil and water analysis within the solar field at five (5) and ten (10) years after facility is placed on-line to determine whether any undesirable substances from the solar panels are collecting on the Subject Property.
6. Battery storage shall not be permitted on the Subject Property.
7. Applicant may substitute ornamental trees for shade trees required in the landscape berm along Dugan Road at the rate required by Section 11-4-21-C-1-c.
8. The service drive shown on the site development plan shall be paved, as required, prior to the facility being placed on-line.
9. The Electric Utility may be required to add new public electric infrastructure to serve the solar garden and such new infrastructure is required to be buried where above ground infrastructure does not currently exist. Where above ground electric infrastructure does exist, then any new electric infrastructure upgrades should be buried except in the case of environmental constraints such as wetland/ hydrology crossings. Also, the point of interconnection is required to be buried; all on-site private and public electric infrastructure (except the Solar Garden) shall be buried as required by Section 11-4-21-C-1-i.
10. That the Subject Property shall be developed in accordance with the site development plans attached hereto as **Exhibit B** and incorporated herein by reference. Minor changes in the location of solar panels, service road, equipment building resulting from soil or subsurface drainage features shall be permitted provided such changes do not increase the area of the solar garden energy system.
11. That the facility shall be constructed using the materials and equipment specified and attached hereto as **Exhibit C**. Substitution of materials and equipment shall require approval by the Village Board.
12. That the solar panels shall have an anti-reflective surface, as required.
13. That the decommissioning plan attached hereto as **Exhibit D**, is hereby approved and made part of this Special Use Permit.

SECTION TWO: GENERAL PROVISIONS

LAPSE OF APPROVAL. The Special Use Permit approval will lapse and have no further effect twelve (12) months following the date of this Ordinance, unless: (1) a building permit has been issued (if required); or, (2) the use or structure has been lawfully established. A Special Use Permit also lapses upon revocation of a building permit or a certificate of occupancy for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the Special Use.

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois this 16th day of April 2024.

ATTEST:

Jennifer Konen,
President of the Board of Trustees

Tracey Conti,
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	___	___	___	___
Trustee Sean Herron	___	___	___	___
Trustee Heidi Lendi	___	___	___	___
Trustee Sean Michels	___	___	___	___
Trustee Michael Schomas	___	___	___	___
Trustee James White	___	___	___	___

Exhibit A

(Legal Description)

The East 1/2 of Section 12, Township 38 North, Range 6 East of the Third Principal Meridian (excepting therefrom the North 1856.25 feet, also excepting therefrom the South 1237.5 feet and also except that part described as follows: Beginning at the Northeast corner of the South East 1/4 of said Section; thence Southerly along the East line of said Quarter, 848.0 feet; thence Westerly, at right angles to said East line 597.0 feet; thence Northerly, at right angles to the last described course, parallel with the East line of said South East 1/4, 1095.0 feet; thence Easterly, at right angles to the last described course, 596.96 feet to the East line of said Section; thence Southerly, along said East line, 247.0 feet to the Point of Beginning), in the Village of Sugar Grove, Kane County, Illinois.

PIN: 13-12-200-004

Exhibit B

(Site Development Plan)

Exhibit C

(Material and Equipment Specifications)

Exhibit D

(Decommissioning Plan)