Town of Cortland
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Cortland, IL 60112-0519

Town Hall:
Administration Office 815/756-9041
Town Clerk's Office 815/756-3030
Facsimile 815/756-4583

Operations & Maintenance:
Town Garage 815/756-6469

Police Department:
Non-Emergency 815/756-2558
Facsimile 815/787-2015

Water/Wastewater:
Office 815/756-9684
Emergencies 815/756-1910
Facsimile 815/756-1543

TO: Planning Commissioners May 29, 2020

FROM: Anna B. Kurtzman, Zoning Administrator ABK

SUBJECT: PC 20-03: Text Amendment – Solar Energy Systems

STAFF ADVISORY REPORT

APPLICANT: Town of Cortland

PROPOSAL:
The applicant is requesting to modify Sections 9-2-2, 9-3-7G, 9-3-13B2, 9-6-5 and 9-10-8, and adding a new Section 9-4-34 "Solar Energy Systems." (See Exhibit A)

HISTORY:
On December 1, 2016, Illinois passed the Future Energy Jobs Act which requires that at least 25% of the state's energy needs be met by renewable energy sources by 2025. In 2017 various state rules were established – including ways to establish Solar Energy Farms. In 2018 various solar energy companies approached Town staff regarding the possibility of establishing solar farms within the Town's corporate limits. Staff had to inform these companies that as the Zoning Code does not address this type of use solar farms could not be allowed. At that point the companies requested that the Town quickly amend the Zoning Code. Staff felt that time was needed to adequately research the impacts solar farms would have on the community and therefore requested an 18 month moratorium be placed upon accepting any applications for such farms. This ordinance was adopted on September 10, 2018 and expired on March 10, 2020.

Starting in 2019, the Town began to see requests for solar energy systems to be used by individual property owners. As such, staff expanded the scope of their research to include not just solar farms but also systems for individual use. Staff discovered that the current zoning code last addressed solar systems in 2008 and that the code cross referenced state standards adopted in 1977. As technology within this industry has changed over the years staff determined that it was appropriate to re-examine the impacts new technologies and regulations had on local development.

Staff conducted a review of ordinances that had been adopted by other communities throughout the State to determine the issues they addressed and how they dealt with the issues. Staff ultimately relied on three adopted ordinances and a model ordinance as the basis for formulating a draft ordinance for the Town. (The ordinances used included: DeKalb County Ordinance 2018-06, Village of Sugar Grove Ordinance 2018-0724E, and the City of Taylorville's Ordinance 3841. The model ordinance which was used was produced by Grow Solar.) Staff's draft ordinance was presented to the Planning Commission during a series of workshops during 2019. Based upon feedback from the Commission modifications were made to the draft ordinance, which are reflected in the application (See Exhibit A).

COMPREHENSIVE PLAN:
The 2004 Comprehensive Plan focuses on the known or newly emerging development strategies available at that time and the various impacts on development. It concentrates on local issues with a few regional issues also examined. Rarely, if ever, does it address impacts from state influences. As it relates to utilities, the only utilities addressed are those deemed to be municipal, such as water and sewer. Staff's review of the Plan did not find any indication of consideration of energy systems, as those are handled at a larger regional and state levels.

While only municipal utilities are addressed in the Comprehensive Plan, the impact that energy systems have on the development of a community can be loosely covered by Principal Eight, which states: "A mix of land uses, housing, jobs, and incomes creates a more balanced community, reduces traffic and maintenance costs, and creates better fiscal balance for Cortland." Inclusion of solar energy systems, as both solar farms and for individual use, can be argued as a mixture of land uses and thus contributing to a more balanced community.

COMMENTS FROM THE PROFESSIONALS:
The proposed ordinance can be broken down into five components:

Component one: Adding, deleting and/or modifying definitions.

Component two: Addressing uses. In this component staff is recommending that Solar Farms and Solar Gardens would only be allowed to be considered as a special use in the AG (Agricultural District) and the I-1 (Light Industrial District). Currently Section 9-3-13B2 (Table of Permitted Yard Obstructions) allows solar energy systems to be located in any required yard. Staff is recommending that the provisions allowing these systems to be in required yards be deleted, thus any solar energy system could only be located within the building envelope.

Component three: Adds a new section to 9-4 (Supplementary Regulations for Specific Uses). In this new section roof mounted or building-integrated private solar energy systems would be considered to be accessory uses and must meet the building setback requirements of the district in which the system is being built.

The bulk of this new section addresses solar farms and solar gardens, establishing standards and suggested regulations to be used when considering a request for a special use permit. It addresses such aspects as bulk regulations, parking, signage, permitting, decommissioning and restoring the site.

Component four: One aspect of the third component includes signage. The fourth component includes a cross reference to the Signage section of the Zoning Code.

Component five: The Town's requirements for establishing Special Uses includes a sunset provision – if the project isn't at least initiated within one year of the Town's approval, the permit automatically expires. Due to state regulations for the establishment of solar farms/gardens such farm/garden could not realistically be started within one year of local approval. As such, staff is recommending, for solar farms/gardens, the sunset provision be extended to expire within three (3) years of Town approval of the Special Use Permit.

STANDARDS UPON WHICH REVIEW SHOULD BE TAKEN:

Section 9-9-2 of the Town's Zoning Code addresses the Planning Commission's role in reviewing amendments to the Code, including Text Amendments. Subsection B4 states that the Commission is to provide the Town Board with a written report that includes your recommendation and reasons therefore. Unlike a Map Amendment there is no specific findings of facts rubric for the Commission to follow. As such, a summary statement outlining your rationale is sufficient for the required report. A draft summary statement is attached as a starting point for discussion (Exhibit B). This draft is being presented with the information available at this time. Additional information may be presented during the hearing process which may impact the final summary statement.

PLANNING COMMISSION ACTIONS:
Open the Public Hearing and accept any and all testimony related to the proposal. Once all testimony has been presented the Commission may close the hearing. After closing the hearing the Commission may discuss the merits of the presented information, develop a summary statement outlining the context of the amendment and the rationale used to reach your conclusion, and render a recommendation to the Town Board.

As this is a request to amend the text of the Zoning Code the Planning Commission may recommend to approve, approve with modifications, or deny the request. It is important to note that any motion must be made as a positive statement. (I.E., "I make a motion to approve the request to amend the Zoning Code as presented in the application.")

/abk
Attachments
F:\My Documents\W-ZB\Planning Commission\2020\PC 20-03 Text Amendment - Solar Energy Systems\PC PH\Advisory Report to PC.docx

PC Number:	PC 20-03
Date Filed:	3/9/2020

LAND DEVELOPMENT APPLICATION

THE UNDERSIGNED RESPECTFULLY PETITIONS THE TOWN OF CORTLAND TO REVIEW AND CONSIDER GRANTING THE FOLLOWING APPROVAL ON THE LAND HEREIN DESCRIBED.
(Check all that apply)

[ ] Annexation* [ ] Rezoning from _____ to _____

[X] Text Amendment (see attached language)

[ ] Special Use Permit for a
- [ ] Planned Residential Development
- [ ] Planned Commercial Development
- [ ] Planned Industrial Development
- [ ] Planned Office Development
- [ ] Planned Mixed-Use Development
- [ ] Other _____

[ ] Concept Plan

[ ] Preliminary Subdivision Plat [ ] Preliminary Development Plan *(for Planned Developments)*

[ ] Final Engineering Plan [ ] Preliminary Engineering

[ ] Final Subdivision Plat [ ] Final Development Plan *(for Planned Developments)*

Attach an original copy of the annexation petition to this application

PART I. APPLICANT INFORMATION

APPLICANT *(Please Print or Type)*

Name: Town of Cortland - Anna Kurtzman, Zoning Administrator

Address: P.O. Box 519
Cortland, IL 60112

E-mail: ICCI_Kurtzman@yahoo.com

Phone: (815) 981 - 8790

Fax: (_____) _____ - _____

Town of Cortland
Land Development Application

PC Number: PC 20-03

LAND OWNER *(If different than Applicant)*

Name: N/A

Address: _____

_____

E-mail: _____

Phone: (_____) _____ - _____

Fax: (_____) _____ - _____

CONTACT PERSON *(If different from Applicant)*

Name: Same

Address: _____

_____

E-mail: _____

Phone: (_____) _____ - _____

Fax: (_____) _____ - _____

IS THE APPLICANT THE OWNER OF THE SUBJECT PROPERTY? YES [ ] NO [ ]

*(If the Applicant is not the owner of the subject property, a letter from the Owner authorizing the Applicant to file the **Land Development Application** must be attached to this application.)*

IS THE APPLICANT AND/OR OWNER A TRUSTEE OR
A BENEFICIARY OF A LAND TRUST? YES [ ] NO [ ]

(If the Applicant and/or Owner of the subject property is a Trustee of a land trust or beneficiary(ies) of a land trust, a disclosure statement identifying each beneficiary of such land trust by name and address and defining his/her interest therein shall be verified by the Trustee and shall be attached hereto.)

PART II. PROPERTY INFORMATION

ADDRESS OF PROPERTY: N/A

PARCEL INDEX NUMBER(S): N/A

LEGAL DESCRIPTION: *A LEGAL DESCRIPTION MUST BE ATTACHED TO THIS APPLICATION*

AREA OF PARCEL (*ACRES*): N/A

IF SUBDIVIDING, NUMBER OF LOTS BEING CREATED: NA

CURRENT ZONING: N/A **PROPOSED ZONING:** N/A

Town of Cortland
Land Development Application

PC Number: PC 20-03

RECOMMENDED LAND USE: N/A
(Based upon the recommendations of the Cortland Town Plan)

PROPOSED LAND USE: N/A

NAME OF PROPOSED DEVELOPMENT: N/A

The subject property is located in which FIRE PROTECTION DISTRICT? N/A

The subject property is located in which SCHOOL DISTRICT? N/A

I, *Anna B. Kurtzman*, hereby apply for review and approval of this application and represent that the application and requirements thereof and supporting information have been completed in accordance with the Zoning Ordinance and/or Subdivision Ordinance of the Town of Cortland.

Signature of Applicant

March 9, 2020
Date

State of Illinois
County of DeKalb.

Signed before me on March 9, 2020 by Rita Dixon Nielsen

(seal)

RITA DIXON NIELSEN
"OFFICIAL SEAL"
My Commission Expires
March 11, 2021

signature of notary public

Solar Energy Systems

Amend Section 9-2-2 by deleting the following Definitions:

Conventional Energy System: An energy system utilizing fossil fuel, nuclear or hydroelectric energy and the components of such system, including transmission lines, burners, furnaces, tanks, boilers, related controls, distribution systems, room or area units and other components.

Energy Use Sites: Sites where energy is or may be used or consumed for generating electricity or for heating or cooling gases, solids, liquids, or other materials and where solar energy may be used cost effectively, as defined in the regulations of the Illinois department of commerce and economic opportunity, consistent with the purposes of the Illinois comprehensive solar energy act of 1977.

Joint Solar Energy System: A solar energy system that supplies energy for structures or processes on more than one lot or in more than one condominium unit or leasehold, but not to the general public and involving at least two (2) owners or users.

Solar Storage Mechanism: Equipment or elements (such as piping and transfer mechanisms, containers, heat exchangers, or controls thereof, and gases, solids, liquids, or combinations thereof) that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

Supplemental Conventional Energy System: A conventional energy system utilized for providing energy in conjunction with a solar energy system that provides not less than ten percent (10%) of the energy for the particular end use. "Supplemental conventional energy system" does not include any facilities of a public utility used to produce, transmit, distribute or store gas or electricity.

Solar Energy Systems

Amend Section 9-2-2 by adding the following definitions:

Building-integrated Solar Energy Systems: A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Ground-Mount: A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

Photovoltaic System: A solar energy system that converts solar energy directly into electricity.

Roof-Mount: A solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Farm: A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Garden: A commercial solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing or located off-site from the location of the solar energy system

Solar Energy Systems

Permitted Use Table

Amend Section 9-3-7G (Other Uses)
Add:

	AG	R-1	R-2	R-3	R-4	C-1	C-2	I-1	I-2	P-1
Solar Farm	S							S		
Solar Garden	S							S		

Accessory Use Table

Amend Section 9-3-13B2 (Table of Permitted Yard Obstructions)
Delete:

Structure or Use	Front Yard	Corner Side Yard	Rear Yard	Side Yard
Solar Energy systems, attached	P	P	P	P
Solar Energy systems, detached	P	P	P	P

Solar Energy Systems

Add Section 9-4-34: Solar Energy Systems

A. Permitted Accessory Use: Roof mount or building-integrated private solar energy systems must meet the building setbacks as required by Section 9-3-6A.

B. Solar Farms and Solar Gardens that are the principal use on the property may only be located and permitted in an Agricultural (AG) district or a Light Industrial (I-1), but only when authorized and approved as a Special Use by the Town Board after public hearing and recommendation by the Planning Commission.

Such Special Use as may be allowed shall be subject to the following requirements, restrictions, and conditions:

1. Bulk Regulations:
   i. Minimum Lot Area: 5 Acres
   ii. Front and Corner Side Yard: 50 feet
   iii. Side Yard: 50 feet
   iv. Rear Yard: 50 feet
   v. Height: Ground or pole mounted solar energy system shall not exceed 10 feet in height as measured when the system is oriented at it's maximum tilt. All other equipment shall not exceed 15 feet in height.

2. Off-Street Parking: There shall be a minimum of two (2) parking spaces with minimum dimensions of 10 by 20 feet. Accessways shall be a minimum of 12 feet wide. Parking spaces and accessways located on private property do not have to be paved but do need to have a minimum of a seven (7) inch compacted stone base. Accessways located within the right-of-way shall meet standards set by the Town Engineer

3. Signage: An identification sign shall be posted at the entrance(s) to the site. Each such identification sign shall list the name and phone number of the operator. In addition to the identification sign(s) there shall be appropriate warning signage that is posted along all property lines which are clearly visible on the site. Both the identification sign(s) and the warning sign(s) are exempt from Section 9-6 of the Municipal Code.

4. Power and Communication Lines: Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground.

5. Batteries: If the solar farm or solar garden consists of batteries or storage of batteries, adequate design must be provided to ensure all local, State and Federal requirements regulating outdoor battery storage have been met.

6. Interconnection. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

Solar Energy Systems

7. Stormwater and NPDES. Solar Farms and Solar Gardens are subject to the Town's stormwater management and erosion and sediment control provisions and NPDES permit requirements.

8. Ground Cover and Buffer Areas. The site of a ground mounted Solar Farm or Solar Garden energy system shall be improved and maintained with a native perennial vegetative ground cover over the entire property including under and around solar panels. The purpose of this ground cover shall be the prevention of soil erosion and the management of stormwater run-off. Top soil shall not be removed during development, unless part of a remediation effort.

9. Foundation. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

10. Other Standards and Codes. All Solar Farms and Solar Gardens shall be in compliance with all applicable local, state and federal regulatory codes.

11. Site Plan Required. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, easements, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Town.

12. FAA Compliance. Solar Farms and Solar Gardens that are located within 500 feet of an airport or within approach zones of an airport, are required to complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

13. Endangered Species and Wetlands. Solar Farm and Solar Garden developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department's online, EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer. Results of this consultation will be included in the Special Use application packet.

14. Upon request from the Town, the owner or operator of a Solar Farm or Solar Garden must submit, within 14 calendar days, a current operation and maintenance report to the Town.

15. Decommissioning

    i. A decommissioning plan shall be required to be submitted when applying for all Solar Farms and Solar Gardens, to ensure that facilities are properly removed after their useful life.

ii. Decommissioning of solar panels must occur in the event they are not in use for 90 consecutive days.

iii. The owner or operator will have 6 months to complete the decommissioning plan after operation of a Solar Farm or Solar Garden stops being operational.

iv. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.

v. The Town Board of Trustees may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of financial surety may be required prior to the issuance of a building permit for the facility. Said surety shall remained updated and valid until the Solar Farm/Solar Garden has been completely decommissioned in accordance with the latest approved decommissioning plan and restored in compliance with Section 9-4-34B15. As outlined in the ordinance establishing the Special Use Permit, the amount of surety shall be periodically reviewed by staff and the surety amount adjusted accordingly.

vi. In the event that the State of Illinois enacts a law with regards to the decommissioning of a Solar Farm or Solar Garden, the strictest requirements shall prevail.

vii. The owner of a Solar Energy Facility shall submit an update to this decommissioning plan every three (3) to five (5) years following issuance of the special use.

16. Restoration Requirements: The owner of a Solar Farm or Solar Garden shall provide the Zoning Administrator with a written notice of termination of operations or abandonment of the Solar Energy Facility. Within one hundred twenty (120) consecutive calendar days immediately following the Town's receipt of such written notice or within one hundred twenty (120) consecutive calendar days immediately following the termination of such Special Use, whichever first occurs, the owner of each such Solar Farm or Solar Garden shall:

i. Remove all structures, buildings, solar panels, above ground improvements, outdoor storage, fencing, equipment, and roadways; and

ii. Completely remove all foundations, pads, and underground electrical wires; and

iii. Remove all hazardous material from the property and dispose of the hazardous material in accordance with all applicable Federal, Illinois, and Town laws, statues, ordinances, rules, and regulations; and

iv. Restoration of all soil and vegetation.

17. Bonds: Prior to the issuance of a building permit, the owner of a Solar Energy Facility shall provide the Town with a performance and payment bond with adequate security or surety bond in an amount determined adequate by the Town Board to guarantee the performance of the aforesaid restoration requirements and decommissioning plan.

18. Abandonment. A decommission plan shall be approved by the Town Board during the special use permit process. At the time of building permit, a letter of credit, or other financial surety instrument approved by the Town Attorney, in the amount of the estimated cost of decommission, as approved by the Town Engineer, shall be submitted to the Town. If the Solar Farm or Solar Garden is abandoned and not properly decommissioned, the Town shall utilize the funds to restore the property to its original or an improved condition.

C. Solar Skyspace Easements: The issuance of a permit for a solar energy system does not constitute a granting of a solar skyspace easement by the Town. A solar skyspace easement is not a prerequisite for obtaining a zoning or building certificate from the Town but the owner/operator shall assume all responsibility for obtaining covenants, easements, or similar documentation to assure sufficient sunlight to operate the solar energy system unless adequate access to sunlight is provided by the site and assumes all risks associated with operating the solar energy system without a solar energy easement.

D. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least $3 million per occurrence and $5 million in the aggregate. The Town shall be named as an individual insured on the policy to the extent the Town is entitled to indemnification.

E. Any Solar Energy System(s), Applicant, Owner, or Operator, whether individual or commercial shall defend, indemnify, and hold harmless the Town and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the Solar Energy System(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the Town's other indemnification rights available under the law.

Amend Section 9-6-5 by adding:

V. Identification and warning signs as required by Section 9-4-34B3.

Amend Section 9-10-8 by "re-numbering" the sections. The existing "B" would become the new "C". A new "B" would be added:

B. Failure to Establish, Operate, or Construct a Special Use Permit for either a Solar Farm or Solar Garden: Unless the special use for either a Solar Farm or Solar Garden is established, constructed, and/or operating within three (3) years from the authorization date granting the special use, the special use permit shall expire, without further action by the Board of Trustees. Upon written application, the Town Board may authorize a single extension of the time limit for a period not to exceed one year.

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Planning Commission Text Amendment Summary Statement:

Per the requirements of Section 9-9-2 of the Town's Zoning Code the Planning Commission finds the following statements to be accurate as pertains to PC 20-03, a proposed text amendment addressing solar energy systems:

1. State rules and regulations have encouraged the development of solar energy systems, both for individual private use and larger scale systems commonly referred to as "Solar Farms" and/or "Solar Gardens." These rules and regulations have impacts on land use decisions within the Town of Cortland.

2. The Town's Comprehensive Plan provides limited guidance for energy systems per se. The Plan does include Principal Eight, which states: "A mix of land uses, housing, jobs, and incomes creates a more balanced community, reduces traffic and maintenance costs, and creates better fiscal balance for Cortland." Inclusion of solar energy systems, as both solar farms and for individual use, are being deemed to be included as a mixture of land uses and thus contributing to a more balanced community.

3. As pertains to solar energy systems, the Town's Zoning Code was last updated in 2008. Since then state regulations and changes in industry technology have changed. These changes have impacts on land uses within a local community and therefore their impacts on the community should be examined. The Planning Commission learned about current industry standards and their impacts in developing local land use decisions through a series of workshops conducted in 2019.

4. The proposed amendment to the Zoning Code addresses five areas: updating definitions, establishes uses, establishing standards and guidance in review of special use permits associated with Solar Farms and Gardens, cross references signage requirements, and establishes a new sunset clause for special use permits associated with solar farms/gardens.