

MINUTES OF THE PLANNING BOARD MEETING, OCTOBER 18, 2023 – TOWN OF KINGSBURY

Members Present: Robert Dingman (Chairman), Tim LaSarso, Karen LaRose, Les Macura, Randy Weaver

Members Excused: Todd Murphy, David Gauci

Planning/Zoning Administrator: Todd Humiston

Planning Board Secretary: Alie Weaver

Kingsbury Town Counsel: Jeff Meyer

The meeting was called to order by Chairman Dingman at 7:00 PM.

Roll call of all members and officials.

Chairman Dingman entertained a motion to approve the minutes of the September 20, 2023 Planning Board Meeting. On a motion by Tim LaSarso and seconded by Les Macura, these Kingsbury Planning Board meeting minutes were approved as presented.

AYES: 5 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

Chairman Dingman introduced Flarshal Derani, Project Manager and Michael Marshall, Superintendent of the Geer Road Solar installation. They were before the Board to request removal of the Vaughn Road access road, as it was a condition stated in the resolution approving this project.

Mr. Humiston stated that Fire Chief Purdy and Assistant Fire Chief John Aiken agreed that this access road wouldn't be needed for fire-fighting purposes.

Chairman Dingman stated that flaggers are needed during the installation at this site and Mr. Marshall stated that signs have been mounted and flaggers are now present as the trucks back in to unload the panels.

Chairman Dingman stated that neighbors have complained of their houses shaking during the drilling and Mr. Marshall stated that the drilling on Geer sites 1 and 2 has been completed.

Mr. Weaver stated that the equipment needs to stay on their site, he noted that one of their skid steers had gotten stuck on a neighboring property.

Mr. Meyer read aloud a portion of the resolution where a modification of conditions has been requested and the Board finds no detrimental or negative impact on the surrounding properties.

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ON A MOTION BY Les Macura, SECONDED by Tim LaSarso with all in favor, the resolution to approve the Geer Road 3 site modification passed.

AYES: 5 NAYES: 0 ABSTAIN: 0 MOTION CARRIED

(A full copy of the resolution annexed hereto at the end of the minutes.)

Regarding the Kruger Energy project, Mr. Meyer stated that the applicant needs to construct a draft scope to set the parameters of what the impact statement will look like. The draft scope then gets forwarded to the Board for review.

Mr. Meyer noted that the Board has the authority to retain engineering or any other consultants at the applicant's expense to review the environmental impact statement and scoping document. The LaBerge Group will be sending a proposal for this review. Mr. Meyer also stated that he briefed the applicant's lawyer on the process.

Discussion ensued about solar regulations and the Town Comprehensive Plan.

Mr. Humiston stated that the Town Board received 6 letters of interest for the vacant spot on the Planning Board. The Town Board members narrowed their pick down to 4 people and interviews will be conducted during an Executive Session at the Special Meeting next Wednesday night.

There being no further business to discuss, Randy Weaver made a motion to adjourn and Karen LaRose seconded. All others voted in favor and the October 18th, 2023 Kingsbury Planning Board meeting was adjourned at 7:20 pm.

Alie Weaver

Planning Board Secretary

**PLANNING BOARD OF THE TOWN OF KINGSBURY
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Resolution 10-01

Adopted October 18, 2023

**Introduced by LES MACURA
who moved its adoption.**

Seconded by TIMOTHY LaSARSO

**RESOLUTION AMENDING THE APPROVAL OF AES DE DEVCO NC, LLC, GEER
RD SOLAR 1 LLC, GEER RD SOLAR 2 LLC, and GEER RD SOLAR 3 LLC V.
PLANNING BOARD OF THE TOWN OF KINGSBURY, ET. AL. BEARING
WASHINGTON COUNTY SUPREME COURT
INDEX NO. EC2021-37218**

WHEREAS, pursuant to Article IX of the Zoning Local Law of the Town of Kingsbury contained in Chapter 280 of the Code of the Town of Kingsbury (hereafter the "Zoning Local Law"), the Planning Board is authorized and empowered to review and approve, approve with modifications, or disapprove site plans prepared in accordance with the Zoning Local Law; and,

WHEREAS, Peckham Materials Corp. (hereafter the "Applicant"), by application dated and submitted on August 15, 2019, by Geer Rd Solar 1 LLC; Geer Rd Solar 2 LLC; Geer Rd Solar 3 LLC; and Geer Rd Solar 4 LLC (hereafter the "Original Project Companies"), made and submitted on August 15, 2019, applied to the Planning Board for Site Plan Approval relative to construction of four (4) separate, five (5) megawatt alternating current ("MWac") solar arrays *i.e.*, an array of commercial grade solar panels capable of generating a collective 20 MW of clean, renewable energy, (hereafter the "Site Plan Review Application"); and

WHEREAS, at the April 15, 2020, public meeting and hearing, the Project Companies agreed to amend the Site Plan Review Applications to reduce the overall scale of the project from four (4) parcels to three (3) (*i.e.*, one of the 5.0 MW solar arrays and one of the operators, Geer Rd Solar 4 LLC, had been eliminated). The Project Companies (Geer Rd Solar 1 LLC; Geer Rd Solar 2 LLC, and Geer Rd Solar 3 LLC) also outlined various additional changes to the project landscaping, vegetation, and screening plan intended to mitigate the Planning Board's previously expressed aesthetic and screening concerns; and

WHEREAS, between August 2019 and April 2020, the Project Companies submitted to the Planning Board numerous plans, revisions, engineering comments and requested records including but not limited to the following: site plans, layout landscaping, slope analysis, driveway profile, grading drainage plans, erosion and sediment control plans, a stormwater pollution prevention plan ("SWPPP") for the individual lots, decommissioning plans, engineer's estimates of costs, numerous engineering comments and reports, and otherwise responded to the Planning Board's comments raised during the review process; and,

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WHEREAS, on June 17, 2020, the Planning Board adopted and, on June 18, 2020, filed, its "Resolution Approving Site Plan Application of Geer Rd Solar 1 LLC, Geer Rd Solar 2 LLC, and Geer Rd Solar 3 LLC,"; and

WHEREAS, AES DE DEVCO NC, LLC ("AES"), and GEER RD SOLAR 1 LLC, GEER RD SOLAR 2 LLC, and GEER RD SOLAR 3 LLC (collectively, the "Petitioner", commenced actions against the Planning Board of the Town of Kingsbury and Todd Humiston, Individually, and in his Official Capacity as the Code Enforcement Officer of the Town of Kingsbury, pursuant to Articles 78 and 30 of the NY CPLR and 42 USC § 1983; and

WHEREAS, after litigation, AES, the Project Companies, and the Town have worked cooperatively towards the resolution of their differences, which includes, but is not limited to, the making of certain adjustments and revisions to the Approved Plans in order to further avoid or minimize any adverse impacts on the community, including by examining the potential to move the solar array generally known as "Geer Road 3" from the location in the Approved Plans to a nearby parcel (the "Strong Parcel") also owned by Peckham Materials Corp. while retaining the balance of the Project in the approved locations (*i.e.*, Geer Rd 1 and Geer Rd 2); and

WHEREAS, in order to settle the litigation the parties have reached an agreement based upon the terms contained in the Stipulation of Settlement; and

WHEREAS, by resolution of the Planning Board of the Town of Kingsbury dated March 24, 2022, the Stipulation of Settlement was approved conditioned upon the following:

- Final Engineering sign-off by the Town of Kingsbury Planning Board's designated engineer;
- Access to the Strong Parcel shall be via Underwood Road as shown on the revised plans, with the Vaughn Road entrance being maintained by the property owner for emergency access only;
- Construction of the solar arrays shall be limited to between the hours of 8:00 AM to 6:00 PM and all deliveries of supplies and materials shall be limited to between the hours of 10:00 AM and 4:00 PM.

WHEREAS, the Applicant has requested the ability to modify the express condition set out in the Planning Board Resolution set out above; and

WHEREAS, the Applicant has requested the condition requiring emergency access via the Vaughn Road be removed as a condition.

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NOW THEREFORE BE IT:

RESOLVED, the Planning Board of the Town of Kingsbury, upon due deliberation, finds that the proposed amendment will not have a detrimental impact on the approval, nor a negative impact on the surrounding properties; and be it further

RESOLVED, all of the other design details, terms, and conditions contained in the original approval as modified by the stipulation of settlement shall remain in full force and effect and that no other amendments to the approved the site plan, or the stipulation of settlement are approved, nor are any other changes authorized by the adoption of this resolution; and be it further

RESOLVED, that this resolution shall take effect immediately.

Karen LaRose	AYE
Tim LaSarso	AYE
Randy Weaver	AYE
Les Macura	AYE
Chairman Dingman	AYE