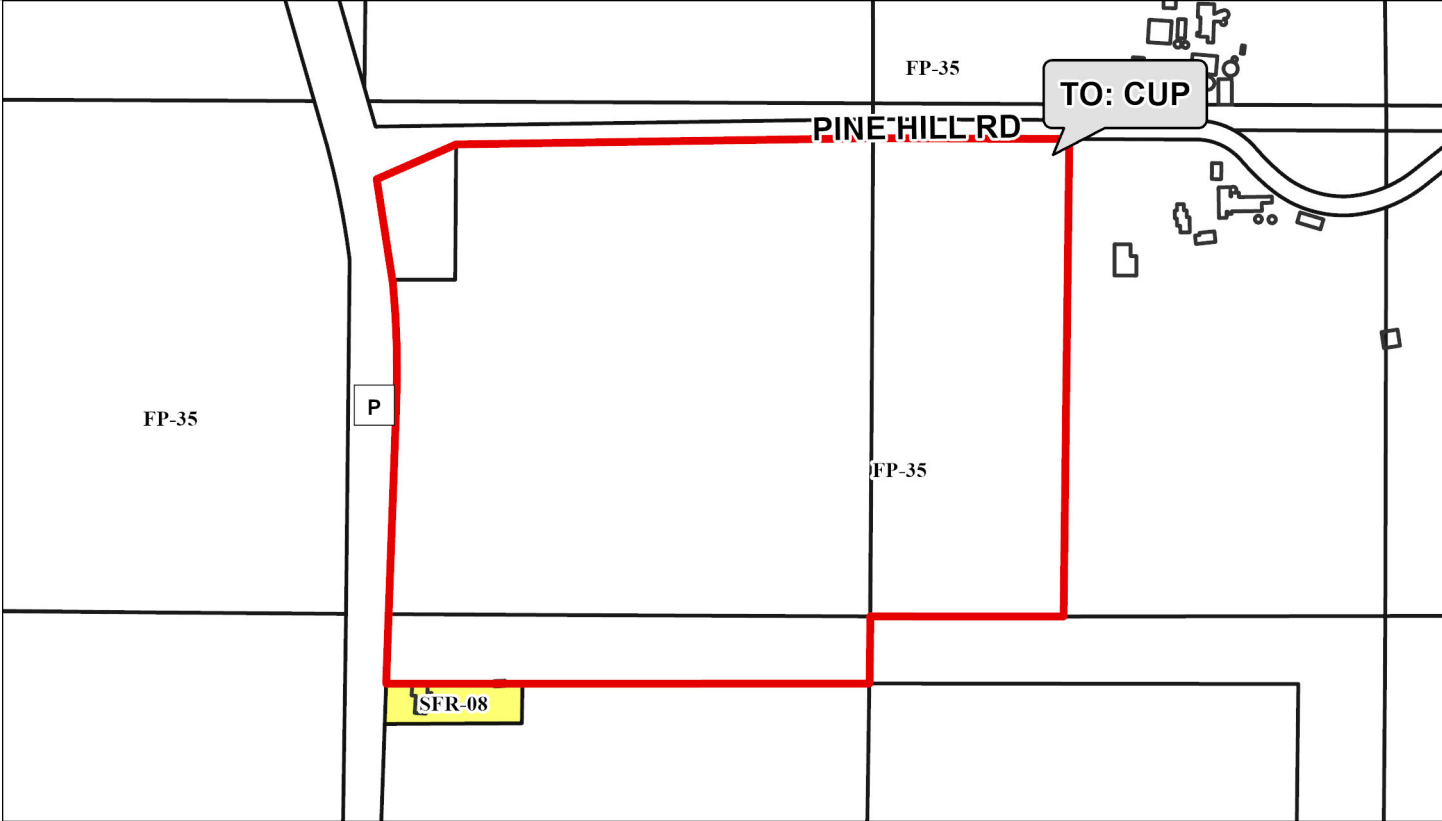


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> June 24, 2025 Report updated for the August 12th ZLR Committee meeting		Conditional Use 02665
	<u>Zoning Amendment Requested:</u> TO CUP: SOLAR ARRAY ELECTRIC GENERATING FACILITY - 35 acres		<u>Town, Section:</u> CROSS PLAINS, Section 22
	<u>Size:</u> 35 Acres	<u>Survey Required:</u>	<u>Applicant:</u> ROBERT M BRUNNER REV TR (c/o BOB BRUNNER)
	<u>Reason for the request:</u> SOLAR ARRAY ELECTRIC GENERATING FACILITY - 35 acres		<u>Address:</u> WEST OF 8541 PINE HILL RD



DESCRIPTION: OneEnergy Development LLC, in conjunction with landowner Bob Brunner, requests a conditional use permit (CUP) to construct a 30-acre solar array farm on a portion of a 206-acre property located at the Pine Hill Road/CTH P intersection. The solar facility would be constructed and operated by OneEnergy on leased land, and would generate six (6) megawatts of energy for nearby customers in Madison Gas and Electric's service territory.

OBSERVATIONS/ FACTUAL INFORMATION: The property is in agricultural use and is part of a 206-acre farm. The neighboring land uses are agricultural on most sides with FP-35 zoning, with one single-family home lot abutting to the south with SFR-08 zoning. An electric generating facility is listed as an allowable conditional use in the FP-35 zoning district. The site will be accessed from a 16-foot wide gravel driveway off of Pine Hill Road. The panels would be screened to some degree by the terrain that rises to the north and east, and by existing clusters of trees to the north/east/south. The application proposes that the solar arrays will be at least 50 feet from the surrounding roads. Typical roadway setbacks will apply for the solar panels and equipment (but not the fencing). Once the solar arrays are installed, pollinator ground cover will be planted to cover the land underneath. An 8-foot tall woven wire fence will enclose the facility for security purposes. The proposed area does not contain prime farm soils.

RESOURCE PROTECTION: The property is subject to shoreland zoning due to an intermittent stream that traverses the farm. The portion of the project that falls within 300 feet of the stream will require a [shoreland zoning permit](#) and will be regulated for impervious surfaces. If the impervious surface exceeds 15% within the portion of the site within 300 feet of the stream, a shoreland mitigation permit is required (which is typically satisfied through stormwater

management, in particular stormwater infiltration.) To clarify permit needs, contact Assistant Zoning Administrator Hans Hilbert 608.266.4993 hilbert.hans@danecounty.gov.

In addition, an Erosion Control permit will be required from the Land and Water Resources Department, and a stormwater management permit may be required if drive/laydown yards/pads/graveled surfaces exceed 20,000 square feet of impervious surface. The applicant is advised to verify the erosion and stormwater permit requirements with [Water Resource Engineering Division](#), please contact Elliott Mergen (608) 224-3730.

COMPREHENSIVE PLAN: The proposal is consistent with the Comprehensive Plan. State law limits local authority to regulate solar fields. The Town Plan encourages the Public Service Commission to implement several siting criteria and planned decommissioning (Chapter 8, pg. 18). For questions about the Plan, contact Senior Planner Bridgit Van Belleghem vanbelleghem.bridgit@danecounty.gov.

CONDITIONAL USE PERMIT DECISION MAKING: “Conditional uses” are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and determine whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a CUP. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant’s testimony with regards to meeting the standards.

1. *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The CUP application describes the proposal. The applicants state that construction will occur for 4-6 months between May and October of 2026, and the site will be operational by the end of 2027. The applicants will complete all environmental studies and surveys required to construct the project, including: wetland delineation, Phase I Environmental Site Assessment, soil analysis, historical and endangered resources reviews. Because the project will occupy more than one acre, it will need to comply with the Wisconsin Department of Natural Resources NPDES Construction General Permit requirements. The solar panels can be recovered and recycled at the end of their useful life, and are covered by a 30-year warranty. The inverters, electrical panels and transformers will be placed in the middle of the site, to minimize visibility and sound (see site plan).

2. *That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.*

The project will be set back over 42 feet from CTH P, over 30 feet from Pine Hill Road (over 50 feet shown on site plan), and over 50 feet from the home to the south (150 feet shown), to minimize the potential for impacts to nearby residents and drivers. The panels will be 6 to 8 feet off the ground (depending on angle which will change throughout the day). The lease agreement provides that the system will be removed at the end of the project life, and includes provisions to ensure there is adequate financial security set aside for the decommissioning.

3. *That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and most of the surrounding properties are in agricultural use and zoning. There are 3 homes within 1,000 feet of the project site, including the Brunner farmstead.

4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*

The driveway will be constructed at grade to minimize impacts to the natural drainage of the land. Any necessary improvements for site drainage are included in the project plans and scope.

5. *That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*

The applicants state that ingress/egress to the facility will use the planned 16-foot wide gravel driveway off of Pine Hill Road. They anticipate between 5 and 30 construction workers on-site for the main 6-month construction period (May-October), and 3-4 delivery trucks per day during that time. Once constructed, traffic will be minimal with one or two people visiting the site a once or twice per month for inspection and minor maintenance, as needed.

6. *That the conditional use shall conform to all applicable regulations of the district in which it is located.*

Electric generating facilities are an allowable conditional use in the FP-35 zoning district. The proposed use conforms to the applicable regulations of the FP-35 zoning district. Solar panels and equipment must comply with minimum building setbacks from the abutting roads. There are no setback requirements for fencing.

7. *That the conditional use is consistent with the adopted town and county comprehensive plans.*

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans. The Dane County Comprehensive Plan promotes the installation of renewable energy electric generating facilities.

8. *If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).*

Renewable energy electricity generation is an approved conditional use in the General Farmland Preservation (FP-35) Zoning district. The facility will meet setback requirements, height limit, and other district requirements. Areas surrounding the site are used for commercial agricultural production, these will continue as such. The solar facility will not cause any disturbance to agricultural operations and production.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to solar installations are minimal. The applicant's CUP application addresses how potential environmental, aesthetic and noise impacts are handled.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for Electric Generating Facilities.

JUNE 24TH ZLR PUBLIC HEARING: On June 24th the ZLR Committee held a public hearing on the proposal, and postponed action to allow more time for the Town of Cross Plains to take action. No one spoke or registered in opposition.

TOWN ACTION: On July 17th the Town Board recommended approval of the CUP with the following conditions:

1. One Energy Development LLC agrees to reimburse Town of Cross Plains for any road damage to Pine Hill Road from construction associated with the Pine Hill Solar Project. One Energy Development LLC and Town of Cross Plains will mutually review Pine Hill Road and agree prior to construction on current status of the road. Post construction, Town of Cross Plains will solely obtain, with reasonable discretion, a quote to repair any road damage. One Energy Development LLC will provide, within 30 days of receiving the quote, a check in the amount of the quote.
2. Madison Gas and Electric, an assignee of the lease between One Energy Development LLC and Robert Brunner, property owner, has an obligation to pay for the cost of removing Pine Hill Solar project improvements at the end of the lease and fund the Town of Cross Plains costs of repairing any road damage associated with removal of solar project improvements.
3. One Energy Development LLC will install and maintain a healthy vegetative screen of native conifer and deciduous trees and shrubs in the northeast corner of the Pine Hill Solar Project. Such initial screening materials will be a minimum of five feet in height or up to eight feet in height if readily available and have a total of no less than 50 trees and shrubs.
4. The project's pollinator ground cover will be regularly maintained to reasonably minimize noxious weeds. If site is not maintained, Dane County and Town of Cross Plains may contract for maintenance of noxious weeds and Madison Gas and Electric and One Energy Development LLC will cooperate and reimburse the town/county maintenance contract costs.

STAFF RECOMMENDATION (updated): Staff recommends that (1) the ZLR Committee makes findings of fact as to whether the proposal meets the CUP standards, and (2) we recommend approval with the conditions listed below.

CUP 2665 Potential Conditions of Approval:

Standard Conditions for all Conditional Use Permits from 10.101(7):

1. Any conditions required for specific uses listed under s. 10.103 (none).
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
4. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
5. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
6. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
10. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
11. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
12. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

Conditions specific to CUP # 2665:

13. One Energy Development LLC agrees to reimburse Town of Cross Plains for any road damage to Pine Hill Road from construction associated with the Pine Hill Solar Project. One Energy Development LLC and Town of Cross Plains will mutually review Pine Hill Road and agree prior to construction on current status of the road. Post construction, Town of Cross Plains will solely obtain, with reasonable discretion, a quote to repair any road damage. One Energy Development LLC will provide, within 30 days of receiving the quote, a check in the amount of the quote.
14. Madison Gas and Electric, an assignee of the lease between One Energy Development LLC and Robert Brunner, property owner, has an obligation to pay for the cost of removing Pine Hill Solar project improvements at the end of the lease and fund the Town of Cross Plains costs of repairing any road damage associated with removal of solar project improvements.
15. One Energy Development LLC will install and maintain a healthy vegetative screen of native conifer and deciduous trees and shrubs in the northeast corner of the Pine Hill Solar Project. Such initial screening materials

will be a minimum of five feet in height or up to eight feet in height if readily available and have a total of no less than 50 trees and shrubs.

16. The project's pollinator ground cover will be regularly maintained to reasonably minimize noxious weeds. If site is not maintained, Dane County and Town of Cross Plains may contract for maintenance of noxious weeds and Madison Gas and Electric and One Energy Development LLC will cooperate and reimburse the town/county maintenance contract costs.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.