



13551 Myron Avery Drive
Marshall, MI 49068
(269)781-7976 Fax (269)781-4403
Hours: Monday ~ Wednesday, 9 AM to 3:30 PM

November 27, 2023

To: Marshall Township Board

From Paul Anderson, Marshall Township Zoning Administrator

Subject: Jerrald Bosserd – FOIA Appeal

- 1) The initial FOIA request was received on October 12, 2023. Under FOIA 15.235 Sec. 5. (1) A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made. That would make the first day of the request October 13, 2023.
 - a) A return email to jerrybos@gmail.com was sent on October 19, 2023, the 5th business day. I was notified by email that it was the wrong email address. I emailed the file on October 25, 2023. I have also attached an appeal that was filed on October 18, 2023. That was before the original FOIA request was sent to Mr. Bosserd.
- 2) Mr. Bosserd seems to be confused regarding who is responsible for the FOIA request. Under FOIA 15.236 (3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5). Clerk Albaugh designated me to answer and respond to all matters concerning Zoning on this FOIA Request. This misunderstanding confuses the request. I am unsure if Mr. Bosserd is emailing me or the clerk as directed so that I can process the FOIA request.
- 3) Addressing the appeal filed by Mr. Bosserd, there were clerical errors (1,2). Number 2 was addressed in the email chain. Number 3: No violation was addressed above (1). Number 4 is addressed above (1). Number 5 The Township does not maintain a list, but all violation documents with NextEra were supplied in the email return. Number 6 under FOIA 15.243 (g) Information or records subject to the attorney-client privilege. Number 7 The applicant has the right to appeal to the district court. Number 8 Under FOIA 15.233 Public records; request requirements; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies. The FOIA request must request documents, and the Township must not guess what document (s) the applicant requests.



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It is important that the board recognizes that when a FOIA request is received in the Township, in most cases, it will have to be sent to a branch of the Township that will have more knowledge of fulfilling the request. Even though that happened from the Township, there is confusion on the requestor's part for not following FOIA 15.236 (3)

The requestor also feels that the Township did not provide the information in 5 business days. That was completed on time and corrected when the Township was made aware of the concern.

The Township fulfilled the requested documents to the requestor.

Paul Anderson

Paul Anderson
Zoning Administrator

Consider this an FORMAL appeal for this issue

MARSHALL TOWNSHIP
CALHOUN COUNTY, MICHIGAN

Jerrald ^①
October 18, 2023
Violation of the ACT ^③
I did not received
til Oct. 25, 2023.
Gerald Bosserd
jerrybos@gmail.com
jerryboss2012@gmail.com ^②

Re: Your FOIA request to Marshall Township:

Dear Requestor: ^④ Oct. 11, 2023

Marshall Township is in receipt of your FOIA request received by the Township effective October 12, 2023 for the following records:

" I want a complete list of all violations on the solar firm that has been issued or about to be issued. Also like you have any letters, or any other correspondence that has been provided to them or the courts. Please consider this to formal FOIA request. ASAP. Thanks you, And full cooperation with other township officials and employees on this issue. And open and transparent file, correspondence in the office, phone, and notes."

Requests Granted and Denied

Your request is *granted in part and denied in part*. The request is denied to the extent any document contains, in whole or in part, any information exempted under Michigan FOIA for privacy concerns, attorney-client privileged communications, or other reason for exemption as specified in the FOIA. Any such document will be denied or redacted accordingly. Your request is granted to the extent said documents can be released to you after redaction of privacy matters and attorney-client privileged communications.

Request No. 1 "I want a complete list of all violations on the solar firm that has been issue or about to be issued". Response: the

5
Either this is a lie or poor professional work

township does not have or maintain such a list. The township is not required to produce a compilation or list. This request is denied.

5
Appealing

How convenient is that?

Request No. 2 "Also like you have any letters, or any other correspondence that that has been provided to them or to the courts". This request is granted in part and denied in part. Please see attached documents. Documents that are subject to the attorney-client privilege are exempt from disclosure under the FOIA.

6
Who's opinion? Let's see the lawyer opinion!
Request No. 3 "Please consider this to formal FOIA request. ASAP."

This is not a request for a record. If you have a particular record that you are looking for, please provide a more specific description. This request is denied.

Request No. 4 "All full cooperation with other Township officials and employees on this issue". This is not a request for a record. If you have a particular record that you are looking for, please provide a more specific description. This request is denied as not one for a record.

Request No. 5 "And open and transparent file, correspondence in the office, phone, and notes". Please describe what you are looking for in a more detail, as I cannot determine what you mean by open and transparent file". Correspondence is office relating to the solar farm and court cases are provided, to the extent that they are not covered by the attorney-client privilege.

The Township's public summary and other documents related to FOIA requests can be located on the Marshall Township website at www.marshalltownship.org.

I want another opinion or/and judgements or ruling. Not Jeff Albaugh. This he all knowing?? He is no Lawyer or JUDGE. Jeff opinion, maybe biased or missed directed. By his past actions.

Sincerely,

7
Jeff Albaugh, Clerk
FOIA Coordinator

Without seeing what's in the file I can not know what to said for in file. It's almost like it's top-secret. Is there collusion or Corruption going on here?
8

**RIGHT TO APPEAL DISCLOSURE DENIAL
AND TO RECOVER ATTORNEY'S FEES AND COSTS**

If a public body makes a final determination to deny all or a portion of a FOIA request, the requesting person may do one of the following at his or her option:

- (1) Submit to the "head of the public body" (the Township Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
- (2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the Authority arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the public body willfully and intentionally failed to comply with the FOIA or otherwise acted in bad faith, the court shall award, in addition to any actual or compensatory damages, punitive damages as prescribed in the FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

Sincerely,

Jeff Albaugh, FOIA Coordinator
Marshall Township

cc: File, Township Attorney

County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

CALHOUN County
Marshall township
Phone: _____

Fee Appeal Form

FOIA Appeal Form—To Appeal an Excess Fee

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: 1001 Date Received: 10/18/23 Check if received via: Email Fax Other Electronic Method
Date of This Notice: 10/18/23 Date delivered to junk/spam folder: _____
(Please Print or Type) Date discovered in junk/spam folder: _____

Name	<u>Connie and Jerrald Bosserd</u>	Phone	<u>2692757912</u>
Firm/Organization		Fax	
Street	<u>15770 mile road.</u>	Email	<u>Jerryboss2012@gmail.com</u>
City	<u>Battle Creek.</u>	State	<u>Michigan</u>
		Zip	<u>49014</u>

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the county: _____

Record(s) You Requested: (Listed here or see attached copy of original request) Marshall Township to whom this concerns. Please consider this a FOIA request for information on the NextEra, Cereal City Solar project. I would like details on the stop work orders. When and why. what the violations were and the fees for the violations. We also would like to know who has the authority to lift the stop work order when the violations are fixed. <see below>

Reason(s) for Appeal:

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:
Jerry and Connie Bosserd and perhaps one other person, would like to actually physically view the file for this request.

Requestor's Signature: [Signature] Connie Bosserd Date: 10-18-2023

County Response:

The county must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-business day extension.

County Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until _____ (month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: _____

If you have any questions regarding this extension, contact: _____

County Determination: Fee Waived Fee Reduced Fee Upheld

Written basis for county determination: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the county's written Procedures and Guidelines to the county board of commissioners or to commence an action in the Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the county board of commissioners. If a civil action is commenced in court, the county is not obligated to complete processing the request until the court resolves the fee dispute. If the court determines that the county required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____ Date: _____

A1

Paul Anderson

From: Paul Anderson
Sent: Thursday, October 19, 2023 2:39 PM
To: jerrybos@gmail.com
Cc: Jeff Albaugh
Subject: FOIA Response
Attachments: J Bosserd FOIA 10-19-23.pdf

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068


(269) 781-7976 Fax (269) 781-4403

Web Site: www.marshalltownship.org

Email: paul@marshalltownship.org

Office Hours Mon~Wed 9 AM to 3:30 PM and closed a half an hour for lunch. All Payments can be dropped off at the dropbox in the front of the office or paid online (a 3% fee applies)

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 Please consider the environment before printing this email

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MARSHALL TOWNSHIP CALHOUN COUNTY, MICHIGAN

October 18, 2023

Gerald Bosserd
jerrybos@gmail.com

Re: Your FOIA request to Marshall Township:

Dear Requestor:

Marshall Township is in receipt of your FOIA request received by the Township effective October 12, 2023 for the following records:

" I want a complete list of all violations on the solar firm that has been issued or about to be issued. Also like you have any letters, or any other correspondence that has been provided to them or the courts. Please consider this to formal FOIA request. ASAP. Thanks you, And full cooperation with other township officials and employees on this issue. And open and transparent file, correspondence in the office, phone, and notes."

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Request No. 1 "I want a complete list of all violations on the solar firm that has been issue or about to be issued". Response: the

A3

township does not have or maintain such a list. The township is not required to produce a compilation or list. This request is denied.

Request No. 2 "Also like you have any letters, or any other correspondence that that has been provided to them or to the courts". This request is granted in part and denied in part. Please see attached documents. Documents that are subject to the attorney-client privilege are exempt from disclosure under the FOIA.

Request No. 3 "Please consider this to formal FOIA request. ASAP."

This is not a request for a record. If you have a particular record that you are looking for, please provide a more specific description. This request is denied.

Request No. 4 "All full cooperation with other Township officials and employees on this issue". This is not a request for a record. If you have a particular record that you are looking for, please provide a more specific description. This request is denied as not one for a record.

Request No. 5 "And open and transparent file, correspondence in the office, phone, and notes". Please describe what you are looking for in a more detail, as I cannot determine what you mean by open and transparent file". Correspondence is office relating to the solar farm and court cases are provided, to the extent that they are not covered by the attorney-client privilege.

The Township's public summary and other documents related to FOIA requests can be located on the Marshall Township website at www.marshalltownship.org.

Sincerely,

Jeff Albaugh, Clerk
FOIA Coordinator

**RIGHT TO APPEAL DISCLOSURE DENIAL
AND TO RECOVER ATTORNEY'S FEES AND COSTS**

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- (1) Submit to the "head of the public body" (the Township Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
- (2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the Authority arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the public body willfully and intentionally failed to comply with the FOIA or otherwise acted in bad faith, the court shall award, in addition to any actual or compensatory damages, punitive damages as prescribed in the FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

Sincerely,

AS

Jeff Albaugh, FOIA Coordinator
Marshall Township

cc: File, Township Attorney

A6

Paul Anderson

From: Paul Anderson
Sent: Friday, October 13, 2023 12:06 PM
To: Baez, Tanner; Seth Koches
Cc: Shelly, Sheldon; Holzschuh, Joe
Subject: Notice Of Hearing
Attachments: NOTICE OF HEARING Planning Commision Special 11-1-23.pdf

Good Afternoon,

Marshall Township Zoning Ordinance Sec. 13-7 allows me to serve the notice personally.

Please acknowledge by return email that you accept the service of the hearing.

If not, I will personally serve this document.

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068
(269) 781-7976 Fax (269) 781-4403
Web Site: www.marshalltownship.org
Email: paul@marshalltownship.org

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NOTICE OF HEARING

Marshall Township
Calhoun County, Michigan

The Marshall Township Planning Commission will hold a hearing on Tuesday, November 1, 2023, at 7:00 p.m. at the Marshall Township Hall at 13551 Myron Avery Drive in Calhoun County, Michigan, for the purpose of hearing all persons interested in the following issue:

Public Hearing: Suspension of the special land use Cereal City Solar, LLC in Section 13-7 in the Township Ordinance. To review the violation of the Marshall Township Zoning Ordinance Section 12-9 Standards of Approval, G. Stormwater. The properties are Ceres Farms 16-091-006-00, 16-091-003-06, 16-160-012-00, 16-091-003-08, Morrell Stealy 16123 14 Mile Rd, 16-090-009-06, 16-080-012-00, 16-081-006-00, and Gregory A Smith, 15131 J Drive N 16-031-003-00 (Laydown Area Only). Daniel and Ryna Sommers, 16565 14 Mile Road. 16-808-003-00 Under Ground Collection Only, Michael Peters 14095 H Drive, 16-091-003-01, Under Ground Collection Only. The applicant is Cereal City Solar, LLC. 700 Universe Blvd. Juno Beach, FL. 33408.

Copies of the Marshall Township Zoning Ordinance, Zoning Map, and application are available for inspection from Jeff Albaugh, Marshall Township Clerk (269) 781-7976, from 9:00 a.m. to 3:00 p.m. Monday through Wednesday before said meeting.

MARSHALL TOWNSHIP PLANNING COMMISSION

By: Alec Egnatuk, Marshall Township Planning Commission Chair

Please publish the above Notice in the Advisor/ Chronicle on October 14, 2023. Please forward Proof of Publication and bill to Marshall Township at the Marshall Township Hall, 13551 Myron Avery Drive, Marshall, MI 49068.

AS

Paul Anderson

From: Shelly, Sheldon <Sheldon.Shelly@nexteraenergy.com>
Sent: Friday, October 13, 2023 12:25 PM
To: Paul Anderson; Baez, Tanner; Seth Koches
Cc: Holzschuh, Joe; Backer, Tracy; Ettinger, Daniel
Subject: RE: Notice Of Hearing

Paul,

I acknowledge receipt of this email.

Sheldon Shelly
Regional Manager – Central
Working on behalf of
NextEra Energy
(979) 985-6447
Sheldon.Shelly@nee.com



From: Paul Anderson <paul@marshalltownship.org>
Sent: Friday, October 13, 2023 11:06 AM
To: Baez, Tanner <Tanner.Baez@nexteraenergy.com>; Seth Koches <koches@michigantownshiplaw.com>
Cc: Shelly, Sheldon <Sheldon.Shelly@nexteraenergy.com>; Holzschuh, Joe <Joe.Holzschuh@nexteraenergy.com>
Subject: Notice Of Hearing

Good Afternoon,

Marshall Township Zoning Ordinance Sec. 13-7 allows me to serve the notice personally.

Please acknowledge by return email that you accept the service of the hearing.

If not, I will personally serve this document.

Paul Anderson


Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068
(269) 781-7976 Fax (269) 781-4403
Web Site: www.marshalltownship.org

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Email: paul@marshalltownship.org

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A10

Paul Anderson

From: Paul Anderson
Sent: Tuesday, October 17, 2023 12:41 PM
To: Dan Walsh (dan@marshalltownship.org); Dave Bosserd (bos2d@aol.com); David VanArman
Cc: Alec Egnatuk (aegnatuk.pc@gmail.com); David Boshears (boshearsford@aol.com); Joanna Johnson; Kevin Hoffman (msathreesixtytransportllc@gmail.com); Phyllis Gresly (phyllisgresly@aol.com); Richard Lindsey (lindseyjagboy1@yahoo.com)
Subject: FW: Next Era / Creal City - stop work order
Attachments: Cereal City Request to Restart Construction 101223.pdf; Suspension Letter and Documents.pdf; 2023-10-16 Anderson, Paul (Field Inspection).pdf

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068

(269) 781-7976 Fax (269) 781-4403
Web Site: www.marshalltownship.org
Email: paul@marshalltownship.org

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Please consider the environment before printing this email

From: Seth Koches <koches@michigantownshiplaw.com>
Sent: Tuesday, October 17, 2023 12:35 PM
To: Paul Anderson <paul@marshalltownship.org>
Cc: Roxanne Seeber <seeber@michigantownshiplaw.com>; Jeff Albaugh <jeff@marshalltownship.org>; robert lyng <lynger99@att.net>
Subject: FW: Next Era / Creal City - stop work order

Hi Paul,

Cereal City asked my office when they will be able to resume construction of the solar project. Attached to this email is their request as well as the suspension letter you issued. I also attached the written report of the Township Engineer, Dan Lewis, who confirmed that Cereal City constructed a 10-year storm water management system plan that will accommodate/control/prevent runoff of water for 90% of storms. Dan confirmed that this design is the acceptable industry standard and plan for civil engineers.

At this time, it is my firm's opinion that the stop work order be lifted and Cereal City be allowed to return to work tomorrow, Wednesday, October 18, 2023. The issue that was the basis for the issuance of the stop work order has been

All

cured. You may forward this email to the project manager at Cereal City so they have written confirmation that work may resume.

Thank you, and please do not hesitate to contact me with any additional questions.

Sincerely,

Seth Koches
Partner
Bauckham, Thall, Seeber, Kaufman & Koches.
470 W. Centre Ave, Suite A
Portage, MI 49024
269-382-4500 ext. 106
269-382-2040 (fax)
koches@michigantownshiplaw.com



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D 12

Cereal City Solar, LLC

October 12, 2023

Via Electronic Mail

Mr. Seth Koches
Bauckham, Thall, Seeber, Kaufman, & Koches P.C.
470 W Centre Ave
Suite A
Portage, MI 49024
koches@michigantownshiplaw.com

Re: Steps Taken By Cereal City Solar to Address Concerns Raised in Suspension Letter and Request to Continue with Construction Activities

Dear Mr. Koches:

We wanted to give you an update on the steps Cereal City Solar, LLC ("Cereal City") has taken to address the stormwater runoff issues that occurred on October 4, 2023, which led to Zoning Administrator Paul Anderson's October 6, 2023 Suspension Letter precluding further construction activities for the Cereal City Solar Project (the "Project") in Marshall Township ("Township"). We understand the gravity of the situation and have taken prompt corrective actions to make sure the stormwater issues will not recur.

As noted previously, Cereal City learned for the first time on October 5, 2023 that an individual construction manager made a unilateral decision not to fully implement approved Township engineering controls that were proposed by Cereal City after some previous stormwater runoff issues. We immediately began completing the construction of those controls to avoid future issues. We were able to complete construction of the engineering controls on October 9, 2023. The Township Engineer inspected and signed off on that work on October 10, 2023.¹ We are expecting written confirmation from the Township Engineer shortly.

Cereal City representatives plan on attending the October 16, 2023 Township Board meeting to show accountability for our actions. We appreciate the need for Cereal City to explain in an open meeting to the Township Board what happened at the Project site, what actions were taken to correct those issues and to address any outstanding concerns of the Board. In addition, we would be willing to conduct a site visit in advance of the meeting with any Board members that wish to see the work that has been completed to address the issues raised in the Suspension Letter.

Now that we have corrected the issue and the Township Engineer has approved the remedy, we believe it's in everyone's best interests to continue the work to avoid prolonging construction and to ensure that local workers stay employed. We don't want our workers to be penalized for our mistake, which has now been rectified.

¹ The inspector noted some minor follow up items that he wanted to see completed and Cereal City is providing visual confirmation to the inspector today.

A13

The consequences of not being able to promptly restart construction activities are substantial for Cereal City and its workers. Conservatively, Cereal City is losing \$325,000 per day if construction activities cannot be restarted. More importantly, the continued pause on construction will hurt the community. There are 463 workers on the Project site. Approximately 340 of those people, or 75%, are local. Without assurances from the Township by the end of this week that we can continue with our construction activities next week, we will have to begin laying people off on Monday. We do not want to do that, and we're confident the Township doesn't want that either.

We temporarily halted our construction activities pending resolution of the stormwater issues in recognition of our mistake and because of our desire to continue partnering closely with the Township with respect to our Project.² Now that those issues have been resolved, we respectfully request that the Township confirm by 5pm on October 13, 2023 that Cereal City can restart all Project construction activities on October 18, 2023.

We also remain willing to pay an appropriate fine under the Township's zoning ordinance.

Thank you for your consideration,



Tracy L. Backer
Senior Attorney

Cc:
Dan Ettinger, Warner Norcross & Judd

² As mentioned previously, our reading of Section 13-7 of the Township Zoning Ordinance is that for a permit suspension to be effective, it requires the preparation of a report prepared by the Zoning Administrator, and a decision by the Planning Commission after a public hearing, which did not occur here.



Vriesman
& Korhorn

A14

October 16, 2023
1001

Via Email: paul@marshalltownship.org

Paul Anderson, Zoning Administrator
Marshall Township
13551 Myron Avery Drive
Marshall, MI 49068

RE: Cereal City Solar, LLC Field Inspection
Marshall Township, Calhoun County, Michigan

Dear Paul:

On July 28, 2023 we reviewed and approved Nextera's design of a temporary stormwater management system for the temporary gravel area for laydown of materials and employee parking. It is our understanding construction of this storm management system did not begin until October 5, 2023.

We visited the site on October 7 and found the following 7 items needing to be completed:

- 1) Rock shall be placed from the edge of the pond all the way to the culvert for the overflow of the pond in the southwest corner of the pond. This rock was half completed this morning.
- 2) Each end of the culvert needs to be cleaned so that the culvert pipe's full capacity can be used.
- 3) The 6" faircloth skimmer was not installed yet.
- 4) One area on the south bank of the pond did not have straw blanket and restoration yet.
- 5) The side banks of the pond with seeding and straw blanket will need to be inspected once grass has been established. These areas had just been seeded and it is important that this pond keeps its shape and volume and therefore an inspection in a few weeks may be necessary to see that the grass is coming in on the side banks of the pond.
- 6) There is a washout at the 6" outlet to the west of the site in the neighbor's low area of their field. We recommend that in the washout area that the black flexible pipe be removed and SDR-35 solid pipe be used. This pipe should be bedded with soil but then at the surface we recommend 8" rip-rap rock to from protect surface run-off. The pipe was holding up well from the proposed pond to the outlet except for at the washout area of the outlet. Therefore, we recommend these fixes only at this washout location at the outlet. (picture of washout area is attached)
- 7) A lid shall be placed on the catch basin in the proposed pond. We are not particular on what type of lid is used, however, it must be an open grate to allow water into it, but be a small enough grid to not allow small animals into it.

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Mr. Paul Anderson
October 16, 2023
Page 2

We communicated these items to Nextera. On October 12, 2023 we verified that all outstanding items were completed.

We would like to re-iterate information below from our July 28, 2023 review and approval of the storm management plan:

The pond is now sized for a 10 year storm with a bottom of pond elevation of 945 and top of 947. A 10 year storm is typical for storm water piping calculations and therefore makes sense for this temporary condition during the construction of this project. The pond has now been designed with 3 outlets prior to discharge to H Drive. These three outlets are described below:

- 1) As soon as water enters the pond it will first go through the skimmer at the bottom of pond elevation of 945. This is designed to drain the pond in 2-3 days.*
- 2) If the skimmer does not keep up or fails there is an overflow catch basin with a rim elevation 946.50. If water reaches this level and is entering the skimmer and this catch basin the pond will drain in 1-2 days.*
- 3) If the skimmer and catch basin plug there is a third relief point at elevation 946.50 where it will enter an emergency overflow rock swale planned on the west side of the pond that is connected to the existing culvert.*

We find this to be an acceptable design. However, this all assumes a 10 year storm and a rain event over a 10 year storm could happen. Therefore, we recommend onsite monitoring during rain events and we recommend you go ahead and run the pumps you have communicated you have on hand to ensure water is getting to the swale on the west side of your access drive instead of 22nd Avenue. We also recommend that the day after any rain event that you go ahead and pump the storm pond dry so it is ready for the next rain event with the full 10 year capacity.

Thank you for the opportunity to assist Marshall Township in this matter. If you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,
VK Civil



Dan Lewis, P.E.

DGL/nmv

116

State of Michigan Uniform Law Citation Ticket No. 40275 Victim Involved

US DOT # Incident No. Dept. No.

The People of: the State of Michigan Local Use/Arrest No. Detection Device
 Township City Village County

OF: MARSHALL BAC of

THE UNDERSIGNED Month Day Year At approximately A.M. P.M. Date of Birth Month Day Year
 SAYS THAT ON: 7 26 23 1530 12 11 68

State Oper./Chauff. Driver License Number CDL

Race Sex Height Weight Hair Eyes Occupation/Employer

Name (First, Middle, Last) JOSEPH PASSIOS

Street 700 UNIVERSE BLVD

City State Zip Code JUNO BEACH FL 33408

E-mail Address Cellular Phone

Vehicle Plate No. Year State Vehicle Description (Year, Make, Color) Veh. Type

THE PERSON NAMED ABOVE, in violation of Local Ordinance State Law Administrative Rule

UPON 16123 14 MILE RD

AT OR NEAR 14 MILE RD

WITHIN CITY VILLAGE TOWNSHIP OF MARSHALL

COUNTY OF CALHOUN DID THE FOLLOWING

Type	MCL Cite/PACC Code/Ordinance	Description (include any bond amount collected on each charge)	Charge No.
<input checked="" type="checkbox"/> C/I <input type="checkbox"/> Warn <input type="checkbox"/> Misd <input type="checkbox"/> Fug <input type="checkbox"/> Fel <input type="checkbox"/> Waiv	SEC 7-7 B. 2.	DISCHARGE OF SURFACE RUN OFF	1
<input type="checkbox"/> C/I <input type="checkbox"/> Warn <input type="checkbox"/> Misd <input type="checkbox"/> Fug <input type="checkbox"/> Fel <input type="checkbox"/> Waiv	Authorization pend.		2
<input type="checkbox"/> C/I <input type="checkbox"/> Warn <input type="checkbox"/> Misd <input type="checkbox"/> Fug <input type="checkbox"/> Fel <input type="checkbox"/> Waiv	Authorization pend.		3

TO THE COURT: Do not arraign on a felony charge until an authorized complaint is filed.

Offense Code(s) 1 SEC 7-7 B. 2 2 3

Key for Type: C/I=Civil Infraction Misd=Misdemeanor Fel=Felony Warn=Warning Fug=Fugitive
 Waiv=Violation for Which Fines/Costs May be Waived Authorization pend.=Authorization pending

Remarks: \$ 500.00 FINE

VIN:

CHECK IF APPROPRIATE Damage to Property Local Court Bond \$
 Vehicle Impounded Injury License Posted in Lieu of Bond
 Traffic Crash Death Appearance Certificate
 Person in Active Military Service Yes No None

SEE DATE BELOW. SEE BACK OF CITATION FOR EXPLANATION AND INSTRUCTIONS

Appearance Date on or before _____ Contact Court

Hearing Date (if applicable) on _____ Formal Hearing Required. (Court will Notify)

Juvenile Traffic Misd. (Court will Notify) Formal Hearing Required. (Court will Notify)

In the Court of

Court Address & Phone Number 10th DISTRICT 269
 161 MICHIGAN AVE 469
 BATTLE CREEK, MI 49014 6513

I served a copy of the civil infraction complaint upon the defendant (or owner/occupant by posting if applicable)

I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.

Complainant's Signature and receipt if applicable _____ Month Day Year 7 27 23

Officer's Name (printed) PAUL ANDERSON Officer's ID No. 012

Agency ORI Agency Name MARSHALL TWP

Ticket 40275 Name Case No.

A17

STATE OF MICHIGAN 10TH JUDICIAL DISTRICT	JUDGMENT Municipal Civil Infraction	CASE NO. C238047
---	--	---------------------

Court Address: 161 E. Michigan Ave, Battle Creek, MI 49014

Court Telephone No. (269) 969-6692

Civil infraction: Sec 7-7 B.2.

Infraction date: 07/26/2023

The State Twp. of: Marshall Township

Statute Ordinance

Defendant's name and address

Joseph Passios 700 Universe Blvd. Juno Beach, FL 33408
--

Amount of judgment

Fine	\$ _____
Court Costs	\$ _____
JSA	\$10
Agency Costs	\$500
Total	\$510
Bond forfeited	\$ _____
Balance due	\$510

IT IS THE JUDGMENT OF THE COURT THAT:

Parties consent to entry of this Order.

Dated: 9/11/23

T. Seth Koches
T. Seth Koches (P71761)
Marshall Township Attorney

Dated: 9/11/23

Daniel P. Ettinger
Daniel P. Ettinger (P58395)
Cereal City Solar, LLC Attorney

signed w/ permission

Defendant is in default. The citation/complaint is sufficient to make a determination of responsibility.

Defendant is is not responsible (after hearing) as amended.

Case dismissed - plaintiff failed to appear.

Case dismissed - on motion of plaintiff.

Other court orders:

Cereal City Solar, LLC shall maintain the property leased by Cereal City Solar, LLC identified as Parcel No. 16-081-006-00, addressed as 16123 14 Mile Road, Battle Creek, MI 49014 (hereinafter, "subject property"), in compliance with Section 7-7.B.2 of the Township Zoning Ordinance so that the subject property is not graded in a way that will discharge unauthorized surface runoff onto adjacent properties in a manner that increases the amount of runoff more than pre-development conditions by no later than 7 days from the date this order is signed. If the Defendant fails or refuses to do so, or if Section 7-7.B.2 is violated in any way, upon motion of the Township, this Court may order the Defendant to appear in Court and show-cause why he should not be held in contempt of Court and sanctioned accordingly. \$500 in agency costs shall be paid directly to Marshall Township, attention Township Clerk, 13551 Myron Avery Drive, Marshall, MI 49068, within 30 days from the date this Order is signed.

This property is legally described as: MARSHALL TWP SEC 8 T2S R6W SE 1/4 160.00 AC +/- RAYNOR & JOANNE MOE RETAIN LIFE-LEASE SPLIT ON 10/19/2004 WITH 16-091-003-06, 16-091-006-09, 16-090-009-00 INTO 16-091-003-10; SPLIT ON 06/07/2005 INTO 16-091-006-07; SPLIT ON 10/24/2006 INTO 16-091-006-03, 16-091-003-08;

JUDGMENT IS ENTERED

9/12/23
Date

A18

James L. Bond
Judge/Magistrate
P70826

NOTICE TO DEFENDANT: You may have a right to appeal or to set aside a default under court rule.

CERTIFICATE OF SERVICE

I certify that:

- I have personally served a copy of this judgment on the defendant.
- I have served a copy of this judgment on the defendant by ordinary mail addressed to the address shown on the judgment, unless otherwise indicated.

Date: 09/14/2023

HW
Clerk/Deputy court clerk/Magistrate/Township Attorney

A19

10th STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	MOTION, AFFIDAVIT, AND/OR ORDER TO SHOW CAUSE	CASE NO. and JUDGE C238047 Honorable Tracie L. Tomak
--	--	--

Court address: 161 E. Michigan Ave., Battle Creek, MI 49014
 Court telephone no.: (269) 969-6692

Plaintiff's/Petitioner's name, address, and telephone no.
 Township of Marshall
 13551 Myron Avery Dr.
 Marshall, MI 49068

v

Defendant's/Respondent's name, address, and telephone no.
 Joseph Passios
 700 Universe Blvd.
 Juno Beach, FL 33408

In the matter of _____

A motion and affidavit is not required when the bench warrant is issued on the judge's own motion.

MOTION AND AFFIDAVIT

1. I am interested in this matter as Marshall Township Attorney

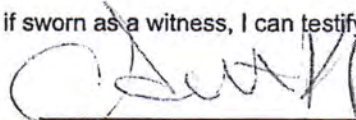
2. Joseph Passios has failed to comply with an order dated September 12, 2023
 Name (type or print) is in contempt for failing to control discharge of surface run off.
 State with particularity admissible facts establishing this motion.

Construction site for commercial solar energy system flooded after rain in violation of court ordered compliance order.

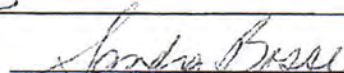
3. I request an order directing Joseph Passios to show cause why
 Name (type or print)

- a. he/she should not be found in civil criminal contempt of court.
- b. judgment should not be entered against him/her (as surety/agent) for the full amount of recognizance.
- c. judgment should not be entered against him/her for failure to file a garnishee disclosure.
- d. other: defendant should not pay contempt fines, attorneys fees and other equitable relief determined by the court.

4. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this motion and affidavit.


 Signature

Subscribed and sworn to before me on 10/9/2023
 Date


 Deputy clerk/Notary public signature
 Sandra Bosse
 Name (type or print)

My commission expires on 09/14/2028

Notary public, State of Michigan, County of St. Joseph Acting in the County of Kalamazoo
 This notarial act was performed using an electronic notarization system or a remote electronic notarization platform.

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ORDER TO SHOW CAUSE

IT IS ORDERED:

5. You must appear before this court on _____ at _____
Date and time

the court address above

courtroom no. _____

to show cause why

you should not be held in civil criminal contempt

for failure to comply with the order of this court as follows:

for the reasons stated in the motion.

a judgment should not be entered against you.

your case should not be dismissed.

other: defendant should not pay contempt fines, attorneys fees and other equitable relief determined by the court.

6. Failure to appear for a contempt hearing may result in a bench warrant being issued for your arrest.

7. A copy of this order must be served personally by mail on the person ordered to appear at least _____
days before the hearing. Number

┌

Judge signature and date

If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

AZ1

Cereal City Solar, LLC

October 12, 2023

Via Electronic Mail

Mr. Seth Koches
Bauckham, Thall, Seeber, Kaufman, & Koches P.C.
470 W Centre Ave
Suite A
Portage, MI 49024
koches@michigantownshiplaw.com

Re: Steps Taken By Cereal City Solar to Address Concerns Raised in Suspension Letter and Request to Continue with Construction Activities

Dear Mr. Koches:

We wanted to give you an update on the steps Cereal City Solar, LLC (“Cereal City”) has taken to address the stormwater runoff issues that occurred on October 4, 2023, which led to Zoning Administrator Paul Anderson’s October 6, 2023 Suspension Letter precluding further construction activities for the Cereal City Solar Project (the “Project”) in Marshall Township (“Township”). We understand the gravity of the situation and have taken prompt corrective actions to make sure the stormwater issues will not recur.

As noted previously, Cereal City learned for the first time on October 5, 2023 that an individual construction manager made a unilateral decision not to fully implement approved Township engineering controls that were proposed by Cereal City after some previous stormwater runoff issues. We immediately began completing the construction of those controls to avoid future issues. We were able to complete construction of the engineering controls on October 9, 2023. The Township Engineer inspected and signed off on that work on October 10, 2023.¹ We are expecting written confirmation from the Township Engineer shortly.

Cereal City representatives plan on attending the October 16, 2023 Township Board meeting to show accountability for our actions. We appreciate the need for Cereal City to explain in an open meeting to the Township Board what happened at the Project site, what actions were taken to correct those issues and to address any outstanding concerns of the Board. In addition, we would be willing to conduct a site visit in advance of the meeting with any Board members that wish to see the work that has been completed to address the issues raised in the Suspension Letter.

Now that we have corrected the issue and the Township Engineer has approved the remedy, we believe it’s in everyone’s best interests to continue the work to avoid prolonging construction and to ensure that local workers stay employed. We don’t want our workers to be penalized for our mistake, which has now been rectified.

¹ The inspector noted some minor follow up items that he wanted to see completed and Cereal City is providing visual confirmation to the inspector today.

A 22

The consequences of not being able to promptly restart construction activities are substantial for Cereal City and its workers. Conservatively, Cereal City is losing \$325,000 per day if construction activities cannot be restarted. More importantly, the continued pause on construction will hurt the community. There are 463 workers on the Project site. Approximately 340 of those people, or 75%, are local. Without assurances from the Township by the end of this week that we can continue with our construction activities next week, we will have to begin laying people off on Monday. We do not want to do that, and we're confident the Township doesn't want that either.

We temporarily halted our construction activities pending resolution of the stormwater issues in recognition of our mistake and because of our desire to continue partnering closely with the Township with respect to our Project.² Now that those issues have been resolved, we respectfully request that the Township confirm by 5pm on October 13, 2023 that Cereal City can restart all Project construction activities on October 18, 2023.

We also remain willing to pay an appropriate fine under the Township's zoning ordinance.

Thank you for your consideration,



Tracy L. Backer
Senior Attorney

Cc:
Dan Ettinger, Warner Norcross & Judd

² As mentioned previously, our reading of Section 13-7 of the Township Zoning Ordinance is that for a permit suspension to be effective, it requires the preparation of a report prepared by the Zoning Administrator, and a decision by the Planning Commission after a public hearing, which did not occur here.

A23



13551 Myron Avery Drive
Marshall, MI 49068
(269)781-7976 Fax (269)781-4403
Hours: Monday ~ Wednesday, 9 AM to 3:30 PM

October 6, 2023

SUSPENSION OF SPECIAL LAND USE FOR ALL AREAS OF THE NEXTERA SOLAR PROJECT.

For violation of Marshall Township Ordinance, Section 12-9 Standards of Approval

G. Stormwater. Stormwater detention and drainage systems shall be designed so the removal of surface waters will not adversely affect neighboring properties or public stormwater drainage systems and shall mimic predevelopment conditions.

The Suspension is under Section 13-7 Revocation.

B. 1 If the Zoning Administrator determines that a special use permit should be suspended or revoked he/she shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.

This suspension prohibits current and any further work on the project.

Paul Anderson
Marshall Township Zoning Administrator

10-6-23

A24

- a. Water, sewer, well, and septic, as applicable. Connections to existing lines, as applicable.
 - b. Location, connections, and spacing of fire hydrants.
 - c. Location and type of all proposed surface water drainage and stormwater facilities.
 - d. Grading plan at no more than two (2) foot contour intervals.
 - e. Proposed streets, parking areas, and driveways, including cross-sections with pavement width, materials, and easement or right-of-way dimensions, as applicable.
5. Building Details.
- a. Exterior elevations, showing building height and describing building materials.
 - b. Gross and usable floor area and floor plans.
6. Supplemental Information.
- a. Project description and brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces.
 - b. Any other information required by the Zoning Administrator or Planning Commission to demonstrate compliance with other applicable provisions of this ordinance.
- E. *Completeness Review and Agenda Setting.* The Zoning Administrator shall review the application against the checklist for site plan review in accordance with *Section 12-5*. If deemed complete, the application shall be reviewed and processed forward. Should the site plan be associated with a special land use permit, a public hearing shall be advertised in accordance with *Section 14-4*.
- F. *Review.* The Zoning Administrator and all applicable reviewing authorities, including but not limited to the township's attorney, planner, engineer, fire marshal and building official, shall review the application and associated materials and the Zoning Administrator shall prepare final report for Planning Commission's review. The staff report and application materials shall be distributed to the Planning Commission prior to the meeting.
- G. *Planning Commission Action.* The Planning Commission shall review the application against the requirements of this ordinance, the review standards of this article, and the review standards for special land use permits, if applicable. Except for condominium projects, the Planning Commission shall table, deny, approve or approve with conditions, all plans received. The Planning Commission shall provide recommendations on condominium developments.
- H. *Township Board Action.* The Planning Commission shall review condominium developments against the requirements of this ordinance, the review standards of this article, as well as PUD Concept Plans, if applicable. The Township Board shall table, deny, approve or approve with conditions, all condominium plans received.

Section 12-9 Standards for Plan Approval

- A. *Standards.* Approval of the site plan shall be granted only if the site plan meets all applicable requirements set forth in this ordinance. Unless a more specific design standard is provided for in this ordinance, all uses, sites and structures subject to plan review shall comply with the following standards:
- B. *Master Plan.* Proposed uses and development activity shall be substantially consistent with the Marshall Township Master Plan.
- C. *Connectivity.* Pathways for bicycles and pedestrians shall be incorporated throughout the development and along all perimeter streets to ensure connectivity between uses and with adjacent properties.
- D. *Traffic Circulation.* The number, location, size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing, and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on

A25

abutting streets and adjacent properties.

E. *Interior Street Connectivity.* Public or private streets may be required to be extended to exterior lot lines to allow connection to existing or planned streets on adjacent parcels, to provide for secondary access, continuity of the circulation system and to reduce traffic and impact to the transportation network.

F. *Natural Resource Protection.*

1. Natural Features. Site design shall prioritize the preservation of natural features, such as steeper slopes, wetlands, significant hardwood tree stands, streams and other significant site characteristics. Applicants must demonstrate how alternatives were considered during the planning process.

2. Connections. If the development site contains high quality natural areas that connect to other off-site areas of a similar nature, the development plan shall preserve such connections. Such connections shall be maintained to allow for the continuance of existing wildlife movement between natural areas and to enhance the opportunity for the establishment of new connections between areas for the movement of wildlife. Breaks or gaps in wildlife movement corridors should be minimized and when possible re-established using appropriate native vegetation.

3. Surface Water Features. If the development site contains a lake, pond or stream, the development plan shall include such enhancements and restoration as are necessary to provide wildlife habitat and improve aesthetic quality in areas of shoreline transition and areas subject to wave or stream-bank erosion. The development plan shall also include a design that requires uniform and ecologically and aesthetically compatible treatment among the lots or tracts surrounding a lake, reservoir, pond or stream with regard to the establishment of erosion control protection and shoreline landscaping on or adjacent to such lots or tracts.

4. Site Disturbance. Site disturbance shall be minimized and shall be demonstrated by the applicant in the following manner:

- a. Identify minimal disturbance areas and no disturbance areas on site plan and construction drawings. Minimal and no disturbance areas must be protected by having the limits delineated, flagged and fenced in the field. Notes to this effect must be included on construction drawings. Areas to prioritize include significant stands of mature trees, notable wildlife habitat, sensitive or protected plant life or natural features, significant viewsheds, and other resources deemed by the township, county, state, or federal government as unique, significant, and/or protected.
- b. No disturbance areas must not be subject to grading or movement of existing soils. Existing vegetation must be present in a healthy condition. Invasive vegetation may be removed.
- c. Minimal disturbance areas must not be subject to excessive equipment movement. Vehicle traffic and storage of equipment and/or materials is not permitted.
- d. Pruning or other required maintenance of vegetation is permitted. Additional planting with site-appropriate plants, including turf grass is permitted.
- e. No work should occur until protective fencing is set up and until a pre-clearing inspection and/or written township approval is provided.

5. Natural Flow Pathways. Natural flow pathways shall be avoided to the maximum extent practical. The applicant shall demonstrate the following:

- a. Identify all existing natural flow pathways on site plan. Site plans must include existing topography and natural features so that these areas can be identified.
- b. Natural flow pathways to be protected must have the limits delineated/flagged/ fenced in the field. Notes to this effect must be included on construction drawings.

G. *Stormwater.* Stormwater detention and drainage systems shall be designed so the removal of surface waters will not adversely affect neighboring properties or public stormwater drainage systems and shall mimic redevelopment conditions.

H. *Landscaping.* The landscape shall be preserved in its natural state, insofar as practicable, by minimizing

unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping may be required to ensure that the proposed uses will be adequately buffered from one another and from surrounding property.

- I. *On-Site Treatment.* Land use intensity shall be scaled appropriately based on the capability of on-site systems to adequately accommodate usage. On-site treatment systems shall be designed to protect groundwater and surface water quality to the maximum extent possible.
- J. *Utility Service.* All utility service shall be underground, unless impractical.
- K. *Exterior Uses.* Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties, and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.
- L. *Emergency Access.* All buildings and structures shall be readily accessible to emergency vehicles. Prior to approval or as a condition of approval, building layouts, internal circulation and other site characteristics that affect life safety shall be reviewed and approved by the appropriate public safety official or fire marshal.
- M. *Water and Sewer.* Water and sewer installations shall comply with all township, county and state specifications and requirements.
- N. *Building Design.* To the maximum extent reasonable, new or substantially remodeled buildings shall be reasonably compatible in appearance with, or shall enhance, the established general character of other buildings in the immediate vicinity or development.

Section 12-10 Conditions of Approval

- A. *Criteria.* Conditions which are designed to ensure compliance with the intent of this ordinance and other regulations of the township may be imposed on site plan approval. Conditions imposed shall be based on the following criteria:
 - 1. Ensure that public services and facilities affected by the proposed land use and site plan will not be adversely affected.
 - 2. Ensure that the use is compatible with adjacent land uses and activities.
 - 3. Protect natural resources, the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - 4. Ensure compatibility between the proposed use or activity and the rights of the township to perform its governmental functions.
 - 5. Meet the intent and purpose of the zoning ordinance, be related to the regulations and standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
 - 6. Ensure compliance with the intent of other township ordinances that are applicable to the site plan.
 - 7. Ensure compatibility with other uses of land in the vicinity.
- B. *Protective Fencing.* As a condition of any site plan approval, prior to any development or site clearing, barrier fencing shall be installed at the limits of soil disturbance and adjacent to priority protection areas, such as significant trees to be saved. Barrier fencing shall be a minimum of four (4) feet in height and shall remain in place and in good condition until the Zoning Administrator authorizes removal of the fencing. No filling, excavating or storage of materials, debris or equipment shall take place within the fenced area, except where permitted by the Planning Commission.

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- B. *Minor Amendments.* Minor amendments are those changes that do not alter the basic design and character of the special land use nor any conditions of the original approval. Minor amendments to the site plan are those meeting the conditions in *Section 12-11*.
- C. *Major Amendments.* Changes to the special land use or its associated site plan that do not qualify as minor amendments shall be processed in accordance with the review and approval procedures of this article as if it were a new application.
- D. *Amendments of Reclassified Uses.* Any use lawfully established by right but subsequently reclassified as a special land use on or after the effective date of this ordinance is not a nonconforming use. Minor and major site plan amendments are subject to all zoning regulations, including any applicable specific use standards, and shall be processed in accordance with this article.

Section 13-7 Revocation

The Planning Commission shall have the authority to revoke a special use permit when the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this ordinance, or the conditions of approval. The Planning Commission may revoke a previous approval if it finds that a violation exists and has not been remedied. The special use permit may be suspended or revoked per the following procedures:

- A. *Conditions for Revocation.* Conditions that may result in a suspension or revocation include, but are not limited to, the following:
 1. The special land use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the approved special use;
 2. Compliance with the special use permit and any conditions have not been consistently demonstrated, and administrative attempts to secure compliance have been unsuccessful;
 3. The Special Land Use Permit has been issued erroneously based on incorrect or misleading information supplied by the applicant and/or his/her agents;
 4. The operation of the use granted by the special use permit has created a risk or danger to the public health, safety or welfare; or
 5. The special use violates any provision of this ordinance or other county, state or federal regulations.
- B. *Procedure.*
 1. If the Zoning Administrator determines that a special use permit should be suspended or revoked he/she shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.
 2. The Zoning Administrator shall file the report with the Planning Commission and provide a copy to the owner, authorized agent or employee by certified mail, return receipt requested.
 3. Within 30 days of filing the report with the Planning Commission, a hearing date will be set for the Planning Commission to consider the alleged violation(s) to determine if the Special Land Use Permit should be suspended or revoked. The owner or authorized agent shall be notified personally or by certified mail, return receipt requested, not less than 15 days before the scheduled hearing.
 4. The owner shall have an opportunity to respond to any allegations made by: questioning adverse witnesses; presenting witnesses on his/her behalf; and presenting arguments, personally or through legal counsel in his/her own behalf.
 5. The Planning Commission shall prepare a written report of its findings within 30 days of completing all hearings and provide them to the owner either personally or by certified mail, return receipt requested. If the Planning Commission concludes that the Special Land Use Permit must be suspended or revoked, the owner shall immediately cease to conduct, operate or carry on the business or use for which the Special Land Use Permit was granted.



Vriesman
& Korhorn

A28

October 16, 2023
1001

Via Email: paul@marshalltownship.org

Paul Anderson, Zoning Administrator
Marshall Township
13551 Myron Avery Drive
Marshall, MI 49068

RE: Cereal City Solar, LLC Field Inspection
Marshall Township, Calhoun County, Michigan

Dear Paul:

On July 28, 2023 we reviewed and approved Nextera's design of a temporary stormwater management system for the temporary gravel area for laydown of materials and employee parking. It is our understanding construction of this storm management system did not begin until October 5, 2023.

We visited the site on October 7 and found the following 7 items needing to be completed:

- 1) Rock shall be placed from the edge of the pond all the way to the culvert for the overflow of the pond in the southwest corner of the pond. This rock was half completed this morning.
- 2) Each end of the culvert needs to be cleaned so that the culvert pipe's full capacity can be used.
- 3) The 6" faircloth skimmer was not installed yet.
- 4) One area on the south bank of the pond did not have straw blanket and restoration yet.
- 5) The side banks of the pond with seeding and straw blanket will need to be inspected once grass has been established. These areas had just been seeded and it is important that this pond keeps its shape and volume and therefore an inspection in a few weeks may be necessary to see that the grass is coming in on the side banks of the pond.
- 6) There is a washout at the 6" outlet to the west of the site in the neighbor's low area of their field. We recommend that in the washout area that the black flexible pipe be removed and SDR-35 solid pipe be used. This pipe should be bedded with soil but then at the surface we recommend 8" rip-rap rock to from protect surface run-off. The pipe was holding up well from the proposed pond to the outlet except for at the washout area of the outlet. Therefore, we recommend these fixes only at this washout location at the outlet. (picture of washout area is attached)
- 7) A lid shall be placed on the catch basin in the proposed pond. We are not particular on what type of lid is used, however, it must be an open grate to allow water into it, but be a small enough grid to not allow small animals into it.

A29

Mr. Paul Anderson
October 16, 2023
Page 2

We communicated these items to Nextera. On October 12, 2023 we verified that all outstanding items were completed.

We would like to re-iterate information below from our July 28, 2023 review and approval of the storm management plan:

The pond is now sized for a 10 year storm with a bottom of pond elevation of 945 and top of 947. A 10 year storm is typical for storm water piping calculations and therefore makes sense for this temporary condition during the construction of this project. The pond has now been designed with 3 outlets prior to discharge to H Drive. These three outlets are described below:

- 1) As soon as water enters the pond it will first go through the skimmer at the bottom of pond elevation of 945. This is designed to drain the pond in 2-3 days.*
- 2) If the skimmer does not keep up or fails there is an overflow catch basin with a rim elevation 946.50. If water reaches this level and is entering the skimmer and this catch basin the pond will drain in 1-2 days.*
- 3) If the skimmer and catch basin plug there is a third relief point at elevation 946.50 where it will enter an emergency overflow rock swale planned on the west side of the pond that is connected to the existing culvert.*

We find this to be an acceptable design. However, this all assumes a 10 year storm and a rain event over a 10 year storm could happen. Therefore, we recommend onsite monitoring during rain events and we recommend you go ahead and run the pumps you have communicated you have on hand to ensure water is getting to the swale on the west side of your access drive instead of 22nd Avenue. We also recommend that the day after any rain event that you go ahead and pump the storm pond dry so it is ready for the next rain event with the full 10 year capacity.

Thank you for the opportunity to assist Marshall Township in this matter. If you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,
VK Civil



Dan Lewis, P.E.

DGL/nmv

A30

Court Address 161 E. MICHIGAN AVE
BATTLE CREEK, MI 49014

Court Telephone
(269) 969-6692

Plaintiff Personal service
TOWNSHIP OF MARSHALL

YOU ARE DIRECTED TO APPEAR AT:

The address above, courtroom 321

V

Defendant Personal service
PASSIOS/JOSEPH/
700 UNIVERSE BLVD
JUNO BEACH, FL 33408

Magis. PT TWP-CITY P-01070

FOR THE FOLLOWING PURPOSE:

DAY DATE TIME
 Pre-trial Conf TUE 9/12/23 9:00 AM

Pltf Atty/People Personal service
(269) 382-4500 P-05137
ROXANNE C. SEEBER
470 W CENTRE AVE STE A
PORTAGE, MI 49024

Probable Cause Conference
 Prelim Exam
 Jury Selection
 Jury Trial

Defendant's Atty Personal service

NonJury Trial
 Sentencing
 Motion
 Arraignment

Officer
ANDERSON/PAUL- CODE COMPLIANCE

Informal Hrg
 Formal Hearing

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

The above matter is adjourned from

Date issued: AUG. 16, 2023

Clerk of the Court

IMPORTANT: READ THIS CAREFULLY

1. Bring this notice with you.
2. No case may be adjourned except by authority of the judge for good cause shown.
3. FAILURE OF THE DEFENDANT TO APPEAR in a civil case may cause a default judgment to be entered. FAILURE OF THE PLAINTIFF TO APPEAR may result in a dismissal of the case.
4. FAILURE TO APPEAR in a criminal case may subject you to the penalty for contempt of court, and a bench warrant may be issued for your arrest.
5. If you intend to employ a lawyer, he or she should be notified of the date at once.
6. Fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment, except when the court allows otherwise, for good cause shown.

A-31

MARSHALL TOWNSHIP
13551 Myron Avery Drive
Marshall, MI 49068
(269) 781-7976

July 27, 2023

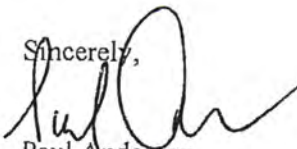
Kunhal Parikh
Cereal City Solar, LLC
700 Universe Blvd
Juno Beach, FL 33408

Re: 16123 14 MILE RD / 16-081-006-00

On July 26, 2023, there was a fourth violation of Township Ordinance Section 7-7B. Grading and Excavating 2) Runoff. (included)

The site was issued a civil infraction citation for the violation (included). The infraction is in violation of your Special Land Use Permit. Any other discharge of runoff into adjacent property land can result in the Township starting the Revocation (included) process of the Special Land Use.

Sincerely,



Paul Anderson
Marshall Township
Zoning Administrator / Code Enforcement Officer
paul@marshalltownship.org

A 32

Section 7-6 Governmental Improvements

The provisions of this ordinance shall be applicable to and enforceable against Marshall Township itself and all other governmental agencies and units, federal, state or local, except when precluded by any local, state and federal laws.

Section 7-7 Grading and Excavating

- A. *Banks and Shorelines.* No persons shall alter, change, transform or otherwise vary the edge, bank, or shore of any lake, river, or stream except in conformance with this section.
 - 1. As provided for in the Inland Lakes and Streams Act, Act 346 of the Public Acts of 1972, as amended, and in accordance with the requirements of the Michigan Department of Natural Resources.
 - 2. If any edge, bank, or shore of any lake, river, or stream is proposed to be altered in anyway by any person, such person shall submit to the Planning Commission all data, exhibits, and information as required by the Department of Natural Resources.
- B. *Drainage.*
 - 1. Slope. Elevations for any site with a building located on it, or a site proposed for a building, shall have a grade sloping away from the walls of the building to prevent the ponding of surface water along foundations.
 - 2. Runoff. No site shall be filled or graded in a way that will discharge surface runoff onto adjacent properties in a manner that increases the amount of runoff more than predevelopment conditions.
- C. *Elevating a Building Site.* Grading and/or filling of materials to elevate the first-floor elevation of a structure is permitted, however, structure height on waterfront lots will be measured from the existing elevation prior to grading.
- D. *Excavation.* The construction, maintenance or existence of any unprotected, un-barricaded, open or dangerous excavations, holes, pits or wells, which, in the opinion of the Zoning Administrator, constitute or are likely to constitute a danger to the public health, safety or welfare is prohibited; provided, this section shall not apply to any excavation for which a building permit or a temporary permit has been issued by the township and which is properly protected and warning signs posted.

Section 7-8 Floodplain Development

In a floodplain, the construction or location of bridges, outdoor equipment, bleachers, and similar outdoor equipment or appurtenances, storage of materials and equipment is prohibited unless such elements would not cause any significant obstruction to the flow, or reduction in the impoundment capacity of the floodplain.

Section 7-9 Height

- A. *Measurement.* Vertical distance of structure height is measured from the elevation of the finished grade at the front of a building, on a level lot, to:
 - 1. Mansard, Gable, Hip or Gambrel Roof. The average height between the eaves and ridge (Figure 7-1).
 - 2. Parapet/Flat Roof. The highest point of the roof for a flat roof.
 - 3. Other Roof Type. A point equivalent to the roof types specified in this section, as determined by the Zoning Administrator.

A-33/END

- B. *Minor Amendments.* Minor amendments are those changes that do not alter the basic design and character of the special land use nor any conditions of the original approval. Minor amendments to the site plan are those meeting the conditions in *Section 12-11*.
- C. *Major Amendments.* Changes to the special land use or its associated site plan that do not qualify as minor amendments shall be processed in accordance with the review and approval procedures of this article as if it were a new application.
- D. *Amendments of Reclassified Uses.* Any use lawfully established by right but subsequently reclassified as a special land use on or after the effective date of this ordinance is not a nonconforming use. Minor and major site plan amendments are subject to all zoning regulations, including any applicable specific use standards, and shall be processed in accordance with this article.

Section 13-7 Revocation

The Planning Commission shall have the authority to revoke a special use permit when the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this ordinance, or the conditions of approval. The Planning Commission may revoke a previous approval if it finds that a violation exists and has not been remedied. The special use permit may be suspended or revoked per the following procedures:

- A. *Conditions for Revocation.* Conditions that may result in a suspension or revocation include, but are not limited to, the following:
 - 1. The special land use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the approved special use;
 - 2. Compliance with the special use permit and any conditions have not been consistently demonstrated, and administrative attempts to secure compliance have been unsuccessful;
 - 3. The Special Land Use Permit has been issued erroneously based on incorrect or misleading information supplied by the applicant and/or his/her agents;
 - 4. The operation of the use granted by the special use permit has created a risk or danger to the public health, safety or welfare; or
 - 5. The special use violates any provision of this ordinance or other county, state or federal regulations.
- B. *Procedure.*
 - 1. If the Zoning Administrator determines that a special use permit should be suspended or revoked he/she shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.
 - 2. The Zoning Administrator shall file the report with the Planning Commission and provide a copy to the owner, authorized agent or employee by certified mail, return receipt requested.
 - 3. Within 30 days of filing the report with the Planning Commission, a hearing date will be set for the Planning Commission to consider the alleged violation(s) to determine if the Special Land Use Permit should be suspended or revoked. The owner or authorized agent shall be notified personally or by certified mail, return receipt requested, not less than 15 days before the scheduled hearing.
 - 4. The owner shall have an opportunity to respond to any allegations made by: questioning adverse witnesses; presenting witnesses on his/her behalf; and presenting arguments, personally or through legal counsel in his/her own behalf.
 - 5. The Planning Commission shall prepare a written report of its findings within 30 days of completing all hearings and provide them to the owner either personally or by certified mail, return receipt requested. If the Planning Commission concludes that the Special Land Use Permit must be suspended or revoked, the owner shall immediately cease to conduct, operate or carry on the business or use for which the Special Land Use Permit was granted.

B1

Paul Anderson

From: David Bosserd <bos2d@aol.com>
Sent: Wednesday, October 25, 2023 7:32 AM
To: Paul Anderson
Subject: Jerry's FOIA

Paul
Jerry called me this morning and said he was told at office that he was sent the information and he has not received it. I am just clarifying what is going on, not trying to start a fight.
Dave

Sent from my iPhone

B2

Paul Anderson

From: Paul Anderson
Sent: Wednesday, October 25, 2023 11:43 AM
To: jerrybos@gmail.com
Cc: Jeff Albaugh; Dave Bosserd (bos2d@aol.com)
Subject: RE: FOIA Response

Hi Dave,

This was sent out last Thursday to the email that I was given: jerrybos@gmail.com.

If there is a problem let me know and I will forward it to another email.

Best Regards,

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068


(269) 781-7976 Fax (269) 781-4403

Web Site: www.marshalltownship.org

Email: paul@marshalltownship.org

Office Hours Mon~Wed 9 AM to 3:30 PM and closed a half an hour for lunch. All Payments can be dropped off at the dropbox in the front of the office or paid online (a 3% fee applies)

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 Please consider the environment before printing this email

From: Paul Anderson
Sent: Thursday, October 19, 2023 2:39 PM
To: jerrybos@gmail.com
Cc: Jeff Albaugh <jeff@marshalltownship.org>
Subject: FOIA Response

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068

(269) 781-7976 Fax (269) 781-4403


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B3

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34

Paul Anderson

From: Jeff Albaugh
Sent: Wednesday, October 25, 2023 1:55 PM
To: Paul Anderson; jerrybos@gmail.com
Cc: Dave Bosserd (bos2d@aol.com)
Subject: RE: FOIA Response

Paul: The email address I have for him on his requests was jerryboss2012@gmail.com. Please resend your responses to him at this address. Thank you. Jeff Albaugh, Clerk

From: Paul Anderson <paul@marshalltownship.org>
Sent: Wednesday, October 25, 2023 11:43 AM
To: jerrybos@gmail.com
Cc: Jeff Albaugh <jeff@marshalltownship.org>; Dave Bosserd (bos2d@aol.com) <bos2d@aol.com>
Subject: RE: FOIA Response

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From: Paul Anderson
Sent: Thursday, October 19, 2023 2:39 PM
To: jerrybos@gmail.com
Cc: Jeff Albaugh <jeff@marshalltownship.org>
Subject: FOIA Response

B5

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068


(269) 781-7976 Fax (269) 781-4403

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Paul Anderson

B6

From: Paul Anderson
Sent: Wednesday, October 25, 2023 1:59 PM
To: Jeff Albaugh
Cc: Dave Bosserd (bos2d@aol.com)
Subject: RE: FOIA Response
Attachments: J Bosserd FOIA 10-19-23.pdf

Well, there it is. I will forward it to the other email. This is where I got this one. I thought it was a new email based on the FOIA form.

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068
(269) 781-7976 Fax (269) 781-4403

Web Site: www.marshalltownship.org

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🖨 Please consider the environment before printing this email

From: Jeff Albaugh <jeff@marshalltownship.org>
Sent: Wednesday, October 25, 2023 1:55 PM
To: Paul Anderson <paul@marshalltownship.org>; jerrybos@gmail.com
Cc: Dave Bosserd (bos2d@aol.com) <bos2d@aol.com>
Subject: RE: FOIA Response

Paul: The email address I have for him on his requests was jerryboss2012@gmail.com. Please resend your responses to him at this address. Thank you. Jeff Albaugh, Clerk

From: Paul Anderson <paul@marshalltownship.org>
Sent: Wednesday, October 25, 2023 11:43 AM
To: jerrybos@gmail.com
Cc: Jeff Albaugh <jeff@marshalltownship.org>; Dave Bosserd (bos2d@aol.com) <bos2d@aol.com>
Subject: RE: FOIA Response

Hi Dave,

This was sent out last Thursday to the email that I was given: jerrybos@gmail.com.

If there is a problem let me know and I will forward it to another email.

B7


Best Regards,

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068
(269) 781-7976 Fax (269) 781-4403
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From: Paul Anderson
Sent: Thursday, October 19, 2023 2:39 PM
To: jerrybos@gmail.com
Cc: Jeff Albaugh <jeff@marshalltownship.org>
Subject: FOIA Response

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068
(269) 781-7976 Fax (269) 781-4403
Web Site: www.marshalltownship.org
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 Please consider the environment before printing this email

B8

Paul Anderson

From: Paul Anderson
Sent: Wednesday, October 25, 2023 2:46 PM
To: Jerry Bosserd
Cc: Dave Bosserd (bos2d@aol.com); Jeff Albaugh
Subject: RE: FOIA
Attachments: J Bosserd FOIA 10-19-23.pdf

Sorry

Paul Anderson

Marshall Township
Zoning Administrator
13551 Myron Avery Dr.
Marshall, MI 49068


(269) 781-7976 Fax (269) 781-4403

Web Site: www.marshalltownship.org

Email: paul@marshalltownship.org

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 Please consider the environment before printing this email

From: Jerry Bosserd <jerryboss2012@gmail.com>
Sent: Wednesday, October 25, 2023 2:27 PM
To: Paul Anderson <paul@marshalltownship.org>
Cc: Dave Bosserd (bos2d@aol.com) <bos2d@aol.com>; Jeff Albaugh <jeff@marshalltownship.org>
Subject: Re: FOIA

Paul there's nothing attached to this email and also what is the total charge of it thank you, Jerry Bosserd

On Wed, Oct 25, 2023 at 2:01 PM Paul Anderson <paul@marshalltownship.org> wrote:

FOIA Information.

Paul Anderson

Marshall Township

Zoning Administrator

B9 /
END

13551 Myron Avery Dr.

Marshall, MI 49068

(269) 781-7976 Fax (269) 781-4403

Web Site: www.marshalltownship.org

Email: paul@marshalltownship.org

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