

Hon. Chairwoman Corinne Pierog and Members of the Kane County Board  
719 S. Batavia Ave, Bldg. A  
Geneva IL 60134

*Via email*

April 2<sup>nd</sup>, 2024

Re: Alexander-Johnson Farm Solar Project – Petition 4616

Dear Madam Chair Pierog and Members of the Kane County Board,

We appreciate the opportunity to continue to discuss the Alexander-Johnson Farm Solar project (Petition 4616) with you. As stated at the February 27<sup>th</sup> meeting, we have continued our outreach to the four neighbor objectors. We continue to try to communicate with them to understand their requests and work to mitigate their known concerns while still allowing the Alexander family to utilize their land for the proposed solar facility as allowed by Illinois and Kane County law. Unfortunately, the four neighbors have continued to be non-responsive and we continue to encounter further delay without meaningful dialogue with them. Starting last fall, prior to the very first public hearing in September, 2023, we have been making repeated good-faith attempts to understand and address, if possible, the neighbors' concerns. At nearly every point, we have been met with silence or hostility. Now that three of them have a joint attorney, we have finally been able to talk to their counsel, but as of the date of this letter, we are awaiting a response to our offers of mitigating concessions. Please know that we have offered new and additional concessions to try to address their concerns as stated during the public meetings, but we still await feedback. Given the continued slowness of their responses, we cannot pause the development of this project any further. Thus, we request that you bring our petition forward for a full vote at your next meeting on April 9<sup>th</sup>, 2024. As a show of continued good will, we further request that you include the following proposed concessions to the neighbors in the Motion for Approval as additional stipulations that the Petitioner must follow (also listed in **Exhibit A** attached):

- **Applicant's landscaping plan along the Argent-Light, Haskin-Svihlik, and Riggs-Grisinger property lines shall be modified as follows: (a) trees shall be 6' tall at planting, instead of 4', and (b) trees shall be planted with a spacing of 20' on center, instead of 30' on center.**
- **Applicant shall (a) maintain a 25'-wide clear access from the Alexander-Johnson property entrance on IL Route 38 to the northeast corner of the Haskin-Svihlik property, as currently designed on the Applicant's site plan, and (b) any overhead power or communication lines installed shall maintain a minimum ground clearance of 20'.**

The following is a description of how and why we are proposing the additional concessions/stipulations. Our understanding is that the primary concerns for the neighbors are (a) visibility, and (b) claimed access easements through our property to access the neighbors' farmland. Regarding visibility, please note that the County Code requires landscaping, but not that the project be invisible from neighbors; if that were the case, no solar projects would ever have been approved in Kane County. Note also that Illinois case

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law is clear that views are not a protected property right. Nonetheless, we recognize the fact that neighbors may not like the look of solar panels, and thus we have offered (a) to increase the density of tree screening along the neighbors' property lines by 50%, going from trees planted 30' apart to 20' apart, and (b) increase the height at planting by 50% from four feet (4') to six feet (6'). This two-foot difference is equivalent to roughly 2-3 years of growth, thus accelerating the effective screening of the solar project significantly. Also please note that the County required setback is 150 feet, and that, by comparison: (i) the Haskin-Svihlik house is approximately 1,025 feet from the nearest proposed panel, (ii) the Riggs-Griesinger house is 1,125 feet from the nearest proposed panel, (iii) the Brandonisio house is 565 feet, and (iv) the Argent house is 260 feet from nearest proposed panel. Thus, we greatly exceed the County-required setbacks and siting requirements.

In fact, this project exceeds the minimum standards of the Kane County ordinance and State law in several ways, as outlined in the below table:

Standard	Requirement	Actual Design
Screening	"a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or <b>plantings of tall native grasses and other native flowering plants.</b> " (emphasis added)	Applicant has chosen costly and effective screening, a continuous line of evergreens, when a simple planting of tall prairie grasses is all that is required. Also, we are proposing 6' tall trees, <b>50% taller than previously-approved projects</b>
Setbacks, residence	150 feet	Between 260' and 1,125' <b>(167% - 4,500% of required distance)</b>
Setbacks, roads	50 feet	350 feet <b>(700% of required distance)</b>
Lighting	Allowed.	None.

Regarding (b), the claimed access easements, Kent Kleckner (the specific farmer the neighbors claim needs this access) has reiterated that our current site plan, as presented to the Board, will accommodate his needs for farming access. He has put his statement in writing, and it is attached hereto as **Exhibit B. *This project as designed will not interfere with the neighbors' farm income.***

Attached as **Exhibit C** is a diagram outlining our proposed project modifications which we have made to appease the neighbors' known concerns. Some of these you have seen before, but for ease of review, we have compiled all modifications into a single diagram.

Some Kane County Board members have raised questions as to if we have adequately pursued outreach with the neighbor objectors. In all the projects we have developed, we have never run into such complete refusal to communicate and engage in goodwill discussions. We attempted to contact every neighbor in advance of the initial public hearing, and have made significant effort to continue our outreach, to little avail. Please see our log of our extensive outreach to the neighbors attached as **Exhibit D**. As I hope is apparent in the attached log, there is a continued pattern from all four neighbor objectors of non-

responsiveness, delay, and refusals to consider compromise. We have acted in good faith in attempting to address their concerns and we continue to do so.

Given the above, we request that the County Board take action, and approve Petition 4616, the Alexander-Johnson Farm Solar Project, at your next meeting on April 9<sup>th</sup>. Further, we recommend that our compromise offers to the neighbors be included as conditions to the approval, as laid out in Exhibit A.

We appreciate your consideration of this matter, and we look forward to doing more business in Kane County.

Sincerely,



Andy Melka  
Director, Development  
312-972-5055  
[andy@horizonpow.com](mailto:andy@horizonpow.com)

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**Exhibit A – Applicant’s Proposed Additional Stipulations**

- Applicant’s landscaping plan along the Argent-Light, Haskin-Svihlik, and Riggs-Grisinger property lines shall be modified as follows: (a) trees shall be 6’ tall at planting, instead of 4’, and (b) trees shall be planted with a spacing of 20’ on center, instead of 30’ on center.
- Applicant shall maintain a 25’-wide clear access from the Alexander-Johnson property entrance on IL Route 38 to the northeast corner of the Haskin-Svihlik property, as currently designed on the Applicant’s site plan, and (b) any overhead power or communication lines installed shall maintain a minimum ground clearance of 20’.

**Exhibit B – Kleckner, Farmer, dated March 15, 2024**

*(see following page)*

Andy Melka  
Horizon Solar Power

March 15<sup>th</sup>, 2023

Dear Andy,

Thanks for the meeting to discuss my access to the Meredith Rd farms, to ensure my continued access if/when the solar farm is constructed. As discussed, the illustration you provided showing a 25' wide (or greater) travel path, and with 20'+ vertical clearance, provides adequate access for my equipment.

I appreciate your efforts to accommodate me and the neighbors to the Alexander-Johnson farm.

Sincerely,

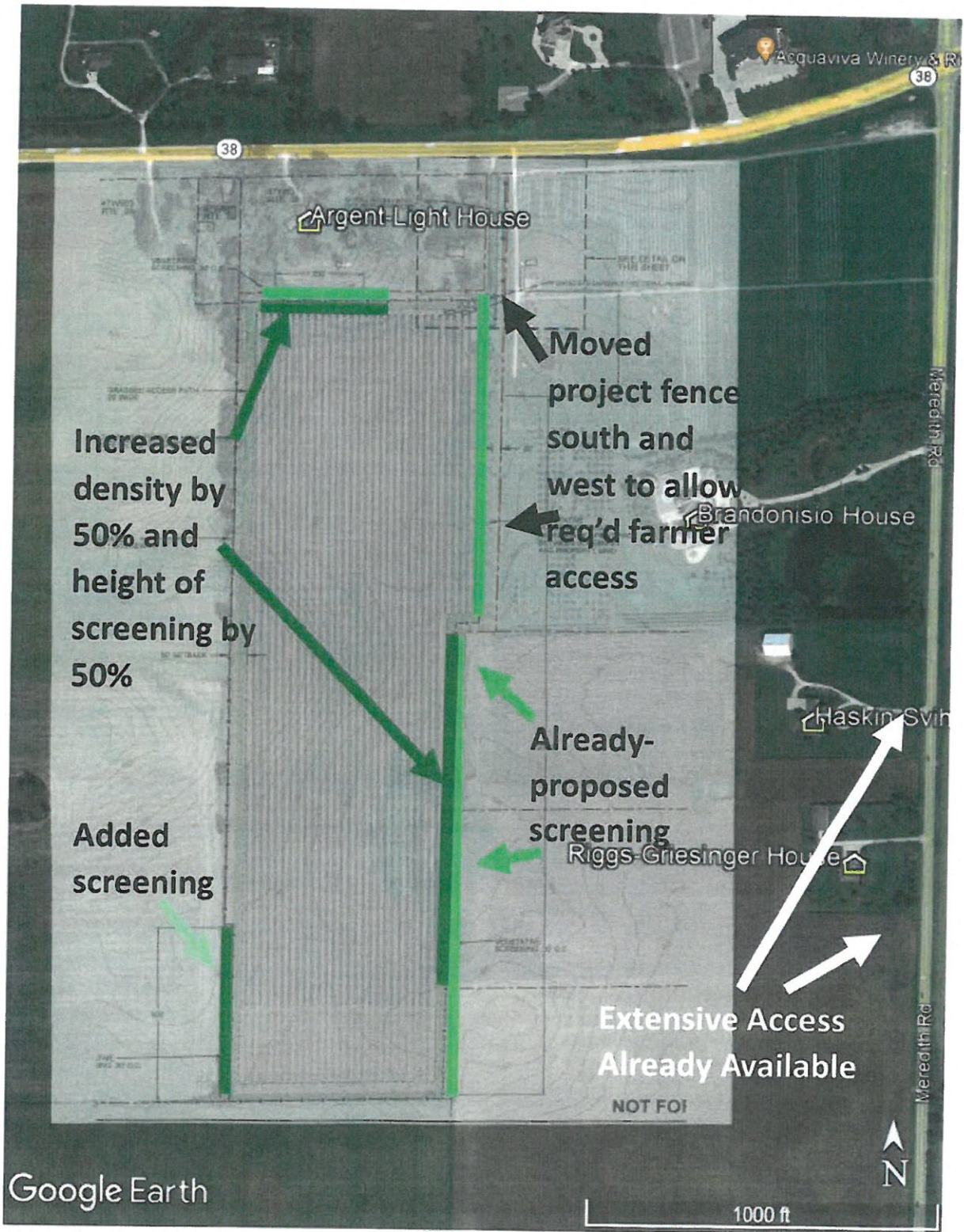
A handwritten signature in cursive script that reads "Kent Kleckner".

Kent Kleckner

**Exhibit C – Diagram of Applicant-Proposed Site Plan Modifications**

*(see following page)*





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## **Exhibit D – Communications Log**

### **Brandonisio/Acquaviva Winery:**

1. April-May 2023: Andy Melka made five (5) calls and three (3) in-person visits to winery to try to reach him regarding the Ruffolo Solar Project (4609); Andy left voicemails and messages with workers informing him "we are developing a solar project next door in your neighbor Mario's farmland". No response. Phone records to evidence this.
2. 4/19/23 – Horizon sent the required Kane County notice letter for Ruffolo public hearing by USPS. No response.
3. 8/19/23 - Horizon sent a (separate and additional) letter re: Alexander public hearing. No response.
4. 9/12/23: at first Alexander public hearing, Vito Brandonisio verbally claimed he was never contacted; after close of public hearing, Andy approached him to try to shake his hand and make contact, and explain that I tried to call many times, but he glared at him and said "get out of my face or else"; his son, Joe Brandonisio, said "I got your messages, but I just ignored them because I thought you were trying to sell me something."
5. 10/5/23 – Delaying until nearly the last possible minute, five days before 90-day appeal deadline, Mr. Brandonisio filed suit against County, KaneSolar01, and Mario Ruffolo, seeking to overturn the legitimate issuance of the Special Use Permit, through his attorney, Stu Peterson.
6. 10/31/23 - Horizon and KaneSolar presented a settlement offer for additional screening at Ruffolo project site and delivered to Brandonisio Attorney Stu Peterson.
7. Dec '23 – Jan '24: Multiple phone calls and emails to try to arrange a meeting with Mr. Brandonisio through his attorney, Stu Peterson, or at least get feedback on our proposal. Mr. Peterson was hard to reach and not communicative. The few times we did manage to speak with him, he indicated that he had not had substantive discussions about our proposal with his client, Mr. Brandonisio, leading us to question if Mr. Peterson had communicated our offers at all to Mr. Brandonisio.
8. 1/10/24: Mr. Peterson emailed our attorney needing refresher on our offer; indicating to us that he had not read it since he received it in the fall.
9. 1/12/24: Our attorney, Nick Standiford, asked Mr. Peterson to help set up meeting between Mr. Brandonisio and our Managing Director, Joe Borkowski. He called several times over the week. We received no response.
10. 1/25/24: Joe Borkowski drove to Mr. Brandonisio's Acquaviva Restaurant with a written settlement offer and request to discuss, and to try to speak with Mr. Brandonisio in person. Mr. Brandonisio saw him across the room, but told his employee "tell him I'm busy". Joe left the settlement letter with the employee and saw the employee walk it over to Mr. Brandonisio. No response.
11. Mid-Feb: Repeated the settlement offer to Mr. Brandonisio's attorney, Stu Peterson. No response.
12. 2/27/24: Andy Melka approached Mr. Peterson at the County Board meeting after the hearing and asked for an update on our settlement offer. Mr. Peterson stated that Mr. Brandonisio didn't like our proposed resolution and screening, but requested our landowner, Mario Ruffolo,

convey over 5 acres of Mr. Ruffolo's land to Mr. Brandonisio instead. Andy told him that was not feasible. Mr. Peterson said he thought his client might consider additional screening.

13. 2/29/24: Developed expensive and extensive screening plan and sent to Mr. Peterson for Mr. Brandonisio's review. No response.
14. 3/22/24: through extensive outreach and efforts, Horizon discovered that Mr. Brandonisio utilized a different attorney, Pat Walsh for many of his business matters. Joe Borkowski has communicated recently with Pat Walsh and is hopeful that we will be able to provide Mr. Brandonisio protection of his view as a good-will concession (view shed is not a protected right in Illinois).

### **Argent-Light**

1. 8/19/23: sent letter re: Alexander project
2. 9/5/23: Ms. Argent emailed Blair Alexander, landowner for Petition 4616, with demands of easement and arguments around the same.
3. 9/8/23: Blair offered compromise access license to Gala with hold-harmless provisions and agreement not to use it during solar construction; Ms. Argent rejected the offer and stated that her easement rights were absolute and she would not compromise on the disputed access.
4. 9/11/23: Andy Melka spoke with Ms. Argent about her claimed access, said "we could look into moving the fence down, if that will help, but I cannot force Alexander-Johnson to give you easement"; no conclusions from that call.
5. 9/13/23: Ms. Argent appeared at the public hearing, and stated that she was generally in favor of solar, being a recent transplant from California, but that it didn't belong in her back yard.
6. 9/25/23: Andy Melka emailed Ms. Argent, again expressing our desire to communicate and make concessions to mitigate her concerns. No response.
7. 10/24/23: Blair emailed Ms. Argent with an updated offer of permanent access easement, identical to the existing access path.
8. 11/2/23: Ms. Argent emailed Blair, demanding that needs the "full, wide easement to the access road for the type of equipment we need to get in and out," demanding "90% compaction with a sheepsfoot roller", plus a "great deal of road base put down and compacted". Please note that none of that has ever existed in this access location. We view this as not an effort to reach reasonable agreement.
9. 11/14/23: At the ZBA meeting, our attorney Nick Standiford (Schain) tried to speak with her, she rebuffed him and said "talk to my lawyer". She reiterated her staunch "NIMBY" opposition to a solar project in her backyard and her claims of easement access. The ZBA did not seem to give her claims any credence (indicating that neighbor land use disputes are outside the zoning process).
10. 2/6/24: Joe emailed compromise offer letter. No response.
11. 2/13/24: Ms. Argent's attorney, Tait Lundgren, in public comments before the County Board, stated "to the extent that access has been offered to my clients, that's news to us", which is false.
12. 3/13/24: Our attorney, Mike Noonan, in conversation with Mr. Lundgren, realized that the neighbors had not fully informed their attorney of our previous attempts to address their concerns.

13. 3/19/24: Horizon, via Mr. Noonan, sent a renewed and enhanced settlement offer to Mr. Lundgren.
14. 3/22/24: Mr. Lundgren acknowledged receipt, but once again delayed the matter by stating he would not be able to meet with his clients until the first week of April.

#### **Haskin-Svihlik**

1. 8/19/23 - Horizon sent a letter re: Alexander public hearing.
2. 8/31/23: Ms. Svihlik emailed Andy Melka (with her husband, Chuck Haskin, cc'ed) asking about landscaping, our proposed pollinator-friendly groundcover, and fence. Andy Melka replied with info and offered to meet in person to share in more detail and answer their questions, she replied said she'd get back to me with some possible times; no further response.
3. 9/12/23: During the public hearing, Mr. Haskin shouted out and called Andy a liar, after I said, "I tried to call everyone". After the conclusion of the public hearing, Mr. Haskin came up to Andy Melka, glaring and with his head lowered, and growled "you're a slimy c\*nt".
4. 9/25/23: Andy emailed them both, again expressing our desire to communicate and make concessions to mitigate their concerns.
5. 9/29/23: Blair emailed with an offer to pay to improve their access from Meredith Rd, in an effort to be neighborly and eliminate their easement opposition.
6. 10/16/23: Mr. Haskin replied to Blair, saying "that won't work, we'll have to give an easement to Riggs [apparently unaware of the irony], and we cannot use our driveway for agricultural equipment, so we'll only accept what we've demanded." No compromise offered.
7. 11/14/24: At the ZBA meeting, Horizon attorney Nick Standiford tried to speak with Ms. Svihlik to connect, she rebuffed him and said "talk to my lawyer". When Nick asked "who's your lawyer?" she refused to tell him and refused to take Nick's card to give to her lawyer.
8. 2/6/24: Joe emailed compromise offer letter. I also dropped one at the house, Chuck answered the door, I told him the gist, and he said "ok". No response.
9. 2/13/24: Their attorney, Tait Lundgren, in public comments before the County Board, stated "to the extent that access has been offered to my clients, that's news to us", which is false.
10. 3/13/24: Our attorney, Mike Noonan, in conversation with Mr. Lundgren, realized that the neighbors had not fully informed their attorney of our previous attempts to address their concerns.
11. 3/19/24: Horizon, via Mr. Noonan, sent a renewed and enhanced settlement offer to Mr. Lundgren.
12. 3/22/24: Mr. Lundgren acknowledged receipt, but once again delayed the matter by stating he would not be able to meet with his clients until the first week of April.

#### **Riggs-Griesinger**

1. 8/19/23: Horizon sent a letter re: Alexander public hearing. Could not find any phone numbers for her.
2. 9/12/23: At ZBA public hearing, she said "that's false" in response to Andy saying "I tried to call everyone".

3. 11/14/23: Nick Standiford tried to introduce himself to her and ask about her attorney, she totally rebuffed him.
4. 9/29/23: Blair Alexander emailed with an offer to improve their access from Meredith Rd, in an effort to be neighborly and eliminate their easement opposition. No response.
5. 2/6/24: Joe Borkowski mailed compromise offer letter. Andy Melka dropped off physical copy at their house. No response.
6. 2/13/24: Her attorney, Tait Lundgren, in public comments before the County Board, stated "to the extent that access has been offered to my clients, that's news to us", which is false.
7. 3/13/24: Our attorney, Mike Noonan, in conversation with Mr. Lundgren, realized that the neighbors had not fully informed their attorney of our previous attempts to address their concerns.
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