

TOWN OF ROSENDALE PLANNING BOARD

MINUTES

THURSDAY, APRIL 14TH, 2022
RONDOUT MUNICIPAL CENTER
1915 LUCAS AVE.
COTTEKILL, NY 12419

Chair Billy Liggan, called the meeting to order with the Pledge of Allegiance at 7:34 pm.

ROLL CALL

Billy Liggan, Chairman	Present
Jim Luckner, Vice Chairman	Present
Jere Brown	Present
John Ivankovic	Present
Nick Mercurio	Excused
Randi Morf	Present
Dave Plante, Bergmann Associates Consultant	Present
Councilwoman Carrie Wykoff, Town Board Liaison	Excused
Brisa Casas, Planning Board Clerk	Present

There is no representative present from the Rosendale Environmental Commission.

MINUTES:

Motion made by Jere Brown, seconded by Randi Morf, to accept the minutes from March 10th, 2022 with the following amendment:

Page 6, Line 28 – addition of “*in the Town of Rosendale.*”

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – Yes, John Ivankovic – Yes, Randi Morf – Yes

Motion carried.

PUBLIC HEARING:

Application: #2022-1-Special Use Permit

SBL: 62.4-6-33.100

Location: 173 Coutant Road

Applicant: Lewis Solar Partners LLC

Kathy Haake, Chris Koenig and Tory Vanslyke are all present on behalf of this application.

Motion made by Vice Chairman Jim Luckner, seconded by Jere Brown, to open the public hearing at 7:36pm

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – Yes, John Ivankovic – Yes, Randi Morf – Yes

Motion carried.

Public Comment:

Steve Spurgant

- He owns a neighboring parcel at 142 Coutant Road.
- He asks questions about boundary lines in relation to his parcel.
- Chris Koenig screen shares the Site Plan and shows Mr. Spurgant's property in relation to this project location.
- He reviews the Site Plan via screen share and asks about drainage. Will the solar panels cause any excess water runoff?
- Chris Koenig enlarges the Site Plan via screen share and points out the topographic contour lines that indicate the steepness or gentleness of slopes. It appears from the contour lines that Mr. Spurgant's parcel drainage flows onto the 173 Coutant parcel, therefore drainage should not be an issue. Mr. Koenig also states that the majority of the project site is already clear open field from previous agricultural use and Johnny-on-the-Spot business use.

The board reviews the April Bergmann Memo comments from Dave Plante and discusses them with the applicants.

Bergmann Memo Comments from Dave Plante:

NYSDEC SWPPP Guidance Memorandum:

- o The memorandum states that impervious areas will be reduced by 25% while Section 3.1 of the SWPPP states that impervious areas will be reduced by 40%. Clarify which is correct and revise the SWPPP to report the correct reduction in impervious area.

- Requirement 3 of the memorandum states that some grading will occur under the panels. Show the limits of grading on the plans and specify the erosion and sediment control measures required for those areas. Note that the area of road widening should be including within the limits of disturbance/grading.

Drainage Maps:

- The Applicant should label the contours on the Existing and Proposed Conditions Drainage Maps.

The Applicant shall add the Hydrologic Soil Group (HSG) and land cover types on the Existing and Proposed Drainage Maps.

- The drainage boundary line that divides areas 4E and 1E is not delineated correctly. Based on the existing contours, sub catchment area 1E should include the entirety of the existing driveway.

Stormwater Management Planning:

- Section 3.1 mentions that the total impervious will decrease by 40%. The applicant should provide details on how the existing impervious areas will be converted and restored to pervious areas. The plans should follow the NYSDEC's "Deep Ripping and Decompaction" Manual.
- The SWPPP shall include the methodology used for stormwater runoff calculations.
- Section 2.0 mentions that "stormwater discharges do negatively impact adjacent waterbodies." Please revise this statement to state that the stormwater discharges will *not* impact adjacent waterbodies.

Draft eNOI:

- Provide a response to item #37 of the eNOI.

Plans:

- The Applicant mentions on the plans and Memorandum that minor grading will occur in order to fill and flatten some areas. The limits of grading are not clearly defined on the plans. The Erosion and Sediment control plans should include the limits of grading and limits of disturbance.
- Requirement 5 of the Memorandum mentions that "the (transformer) pads will also have "drip strips" installed around the perimeter". These drips strips should be clearly shown and labeled on the plans, and details of their installation around the pads should be provided.
- Some areas along the proposed driveway appear to exceed 10% in slope. Provide a driveway profile to confirm the slope along the driveway. Driveway sections with slopes greater than 10% will require the installation of a geoweb system as shown on the limited use pervious gravel detail. Specify where the geoweb system will be used on the plans and driveway profile. In addition, in accordance with the international fire code, driveways with grades steeper than 10% shall be approved by the Town Fire Department.
- Silt Socks shall be installed parallel to the contours. The plans should be revised accordingly.
- Add a note to the phasing plan to ensure that the contractor shall temporarily stabilize each phase prior to proceeding to the next subsequent phase.

- The entrance driveway is required to be a minimum of 20 feet wide, have turnarounds every 500 feet and be a maximum of 10% slope per the International Fire Code. Please revise the plans accordingly or provide documentation of the Town of Rosendale Fire Marshall's / local fire department's approval of the proposed driveway for the project site as mentioned in section 2.2 of the SWPPP.
- The Applicant should clearly delineate on the plans where the proposed driveway will use the limited use pervious gravel and where standard crusher run gravel will be used for the road.
- As noted elsewhere in this comment memo, the Applicant should provide additional erosion and sediment control measures around the existing NYSDEC Class B stream bisecting the project site to prevent sediment from entering the stream. A note should be added to the plans stating that contractors shall avoid any disturbance within the existing stream during construction.
- Is the Applicant suggesting widening the driveway at the location where it crosses the existing stream? Please provide additional detail for the road widening at the stream crossing.

HydroCAD Models

- The post construction Hydrocad model shows brush and meadow as a cover type in the proposed conditions. Please specify where on-site the cover type will be converted to brush vs. meadow.
- Provide calculations for the 1-year storm event.
- The existing conditions soil listing shows 52.098 acres of A soils and 76.609 acres of D soils while the proposed conditions soil listing shows 52.244 acres of A soils and 76.463 acres of D soils on the project site. Please revise the HydroCAD models so that the soil types are the same for both pre and post conditions.

Original Comment: E(2)(o) – The Applicant indicates that northern-long eared bat, Indiana bat and bald eagle are present in the vicinity of the project site. The Applicant should clarify/commit to tree clearing in the winter months while the two (2) bat species are hibernating. With respect to the bald eagle, the Planning Board should be aware that NYSDEC will indicate what, if any, monitoring, permitting and/or mitigation requirements that the Applicant will be responsible for during the SEQRA coordinated review and subsequent permitting process with NYSDEC. Ultimately, NYSDEC will determine whether a Part 182 Incidental Take Permit will be required for impacts to state-listed threatened and endangered species.

Bergmann Response: Partially Addressed. With respect to the listed bat species, the Applicant has committed to conduct tree clearing between November 1 and March 31. With respect to the bald eagle, the Applicant and their team have indicated that the project will incorporate additional surveys, mitigation measures, and/or permits as required by the NYSDEC to minimize impact on the Bald Eagle. EDF and C.T. Male has engaged with NYSDEC Region 3 regarding Threatened & Endangered (T&E) species in the vicinity of the site. Work with the NYSDEC is on-going, and EDF is committed to following the conservation guidelines and permit requirements

prescribed by the NYSDEC to minimize impacts to T&E species. Copies of any correspondence/Part 182 permits/survey requests from NYSDEC and any copies of completed survey reports should be provided to the Rosendale Planning Board for consideration during the SEQRA determination of significance process. To date, neither the Rosendale planning Board nor Bergmann have received any response from NYSDEC Region 3 to the lead coordinated review request submitted to them after the March 2022 Rosendale Planning Board meeting.

Original Comment: E(3)(f) – The Applicant indicated that the project is located in an archeosensitive area. Has the Applicant initiated consultation with the NYS Historic Preservation Office to determine if a Phase IA/IB survey will be required? Additionally, SHPO requires that solar projects over twenty (20) acres inside the fence complete a Zone of Visibility Impact (ZVI) investigation be completed, including a survey of all properties 50-years of age or older within ½ mile of the solar array (refer to the “New York State Historic Preservation Office Guidelines for Solar Facility Development Cultural Resources Survey Work”). Please provide copies of this correspondence to the Planning Board along with any Phase IA/IB reporting, ZVI mapping and building survey reports if required by SHPO.

Bergmann Response: Partially Addressed. The Applicant has transmitted to the Planning Board in its latest submission a copy of the request for a Phase IA/IB archeological survey and the Applicant has committed to submitting a copy of the survey and subsequent correspondence (i.e. “no effect letters” or requests for additional information) to the Rosendale Planning Board for review. It is recommended that the Applicant clarify formally with SHPO whether or not they will require a ZVI investigation to be completed in accordance with their own guidelines given that the project is over twenty (20) acres.

Original Comment: §75-59(G)(2)(h) – “On-site power lines shall, to the maximum extent practicable, be placed underground.” The powerlines shown on the submitted site plan are indicated to be overhead electric lines. It is recommended that these be placed underground and indicated as “underground electric” from the system to the utility poles at Coutant Road in the final site plan set.

Bergmann Response: Addressed. The Applicant is requesting relief from this requirement due to the steep terrain and shallow rock/bed rock along the proposed access road. Given the remote location of the project and the fact that visual impact related to aboveground poles will be minimal to none, Bergmann is amenable to this request, but defers to the Planning Board for their final determination.

Original Comment: The O&M plan should include a list of stakeholders that will receive copies of site inspection and maintenance reports, including but not limited to the Town of Rosendale, the EDF management team, local emergency service providers, the Property Owner and, if necessary, Central Hudson.

Bergmann Response: Comment not addressed. We continue to request a list of stakeholders be included in the O&M plan, particularly with respect to receipt of stormwater inspection reports.

Miscellaneous Zoning Code Comments

Original Comment: §75-59(G)(3) – A decommissioning plan was not included in the initial submission. It is recommended that a decommissioning plan and cost estimate for bonding be prepared and be provided to the Planning Board for review, in accordance with this section of the Rosendale Solar Code. The credit for scrapping metal and other salvageable materials should not be factored into the decommissioning cost estimate.

Bergmann Response: Addressed. A decommissioning plan has now been provided. Bergmann has reviewed this and offers the following comments:

The confidential decommissioning agreement between the Town of Rosendale and Lewis Solar Partners should be provided to the Rosendale Town Attorney for review, comment and approval;

As required under §75-59(G)(3)(b) of the Rosendale Town Code, a statement should be added to the decommissioning schedule on p. 7 of the provided Decommissioning Plan that *"the site shall be restored to as natural a condition as possible within three (3) months of facility removal."*

The decommissioning cost estimate provided for the project bond is listed in 2022 dollars. A schedule for the bond value showing the escalation of the value of the decommissioning bond should be provided as required by Town Code. A recommended rate of 2% per year should be used for the life of the project (i.e. bond value in year 1 is \$x, bond value in year 2 is $x + (.02 * x)$, etc.). The Applicant should specify if they intend to increase the bond amount during the five (5) year SUP renewal period or if they intend to post a bond for the full cost of decommissioning in 2052 or 2057 dollars at the beginning of the project, pursuant to §75-59(G)(3)(c)[1] of the Rosendale Town Code.

It is recommended that the cost estimate be revised to include the following, where applicable:

- Reseeding, fertilizing and mulching of disturbed areas
- Disposal and transportation to recycling center for recyclable materials
- E&S controls installation, maintenance and removal
- Contractor mobilization/demobilization

- SWPPP preparation and permitting (including NOI and NOT) for ground disturbance associated with decommissioning
- SWPPP inspections for ground disturbance associated with decommissioning
- 10% contingency
- The decommissioning plan should include a note/commitment that the plan and bond will cover the life of the project as well as the time period for decommissioning after 35 years plus site restoration.

The board also discusses the following with the applicants:

- Kathy Haake met with the Rosendale Fire Marshal for a site visit, he submitted a letter with his comments on the project.
- Power Lines - Is the interior wiring underground or overhead electric lines? Kathy Haake responds: She believes the interior wiring will be underground.
- The fill pond is under the jurisdiction of Army Corp.
- Are the fences restrictive to small animals? Chris Koenig responds that the fences are showing a 3 inch from ground level. Kathy Haake says that the fences can be adjusted is requested by the board.
- Will there be battery storage? Chris Koenig responds: No, there will be no battery storage on site for this project.
- Will there be any new retention ponds? Chris Koenig responds: No, the impervious surface existing on site for this project will not require additional retention ponds to be installed.

Motion made by John Ivankovic, seconded by Jere Brown, to refer this application to the Ulster County Planning Board with the condition that the SWPPP and Site Plan are revised to address April memo comments by Dave Plante and the documents are submitted to the Planning Board clerk by April 22nd 2022 to meet the Ulster County Planning Board submission deadline.

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – Yes, John Ivankovic – Yes, Randi Morf – Yes

Motion carried.

Motion made by John Ivankovic, seconded by Vice Chairman Jim Luckner, to keep the public hearing open until May 12th 2022.

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – Yes, John Ivankovic – Yes, Randi Morf – Yes

Motion carried.

MISC:

Jere Brown shares information from the Ulster County Planning Board

- Short Term Rentals – Many towns that adopted code for short term rentals are already updating them because people are finding loopholes in the code.
- Form Based Code

Dave Plante shares that he was recently elected to the New York Planning Federation 2nd Vice President. The New York Planning Federation is hopeful a regular in person conference will happen soon, a possible location could be near the Lake George area.

ADJOURNMENT:

Motion made by John Ivankovic, seconded by Jere Brown, to adjourn at 8:30 pm.

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – Yes, John Ivankovic – Yes, Randi Morf – Yes

Motion carried.

Respectfully submitted,
Brisa Casas
Planning Board Clerk