

TOWN OF ROSENDALE PLANNING BOARD

MINUTES

THURSDAY, MARCH 10TH, 2022
RONDOUT MUNICIPAL CENTER
1915 LUCAS AVE.
COTTEKILL, NY 12419

Chair Billy Liggan, called the meeting to order with the Pledge of Allegiance at 7:35 pm.

ROLL CALL

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

There is no representative present from the Rosendale Environmental Commission.

MINUTES:

Motion made by Jere Brown, seconded by Vice Chairman Jim Luckner, to accept the minutes from January 13th, 2022 with the following amendment:

Page 3, Line 3 – correct the spelling of the word “not”

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

Motion carried.

NEW BUSINESS:

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, Lauren Sherman and Tory Vanslyke are all present on behalf of this application.

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

Bergmann Memo Comments from Dave Plante:

- The Applicant (Lewis Solar Partners, LLC) has submitted an application for a Special Use Permit and supporting materials for a proposed 5.0 MW community solar project located on a 131.9 acre lot at 173 Coutant Road (Tax SBL 62.4-6-33.100).

Full Environmental Assessment Form, dated 1/26/22

- Major solar collection systems/solar farm as defined under §75-59 of the Rosendale Town Code are a use allowed by Special Use Permit with Site Plan Approval in the A zoning district in the Town of Rosendale.
- B(e) - The Applicant should clarify if they intend to seek any financial incentives with the Ulster County Industrial Development Agency and Kingston City School District (i.e. PILOT). If so, the IDA and School District should be included as SEQRA Involved Agencies.
- B(g) - The Applicant should clarify if they intend to seek any financial incentives with the New York Energy research and Development Authority (NYSERDA). If so, NYSERDA should be included as a SEQRA Involved Agency.
- D(2)(b)(ii) – The Applicant indicates that “a small, isolated man-made pond (0.07 ac) will be filled. The Applicant should indicate if they have requested an received a Jurisdictional Determination from the U.S. Army Corps of Engineers (Corps) formally classifying this pond as isolated, or if they intend to during the Nationwide Permitting process upon submission of a Pre-Construction Notification (PCN) to the Corps.
- D(2)(e)(iii) – The Applicant should provide more detail on proposed stormwater retention/detention/treatment.
- D(2)(m)(i) – The Applicant includes potential for typical construction noise during the construction phase of the project but does not detail the operational noises

that may be caused by the inverters, transformers and/or tracking-panel motors. The EAF should be revised to include this assessment.

- 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.
- 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.
- §75-59(G)(2)(a) – The site plan is required to be sealed by a professional engineer. While a stamp box has been provided the preliminary site plans are not sealed. Please include the seal in the final site plan.
- §75-59(G)(1)(a) – The preliminary site plan shows that these setback requirements are achieved by the proposed site plan. A zoning table should be added to the final site plan set that succinctly demonstrates how the project meets the bulk lot requirements of the code.
- §75-59(G)(2)(c) – While generic signage call outs are added around the perimeter of the project fence, there is no specific call out for the front gate. The final site plan should include this specific call out in the vicinity of the entrance and a detail for the sign (and all signs) should be included on the typical detail sheet of the final site plan set.
- §75-59(G)(2)(e) – “The applicant shall demonstrate in their submission how they will develop, implement, and maintain native vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.” This was not included and needs to be provided by the Applicant. Any plantings/seed mixes should be included in the final site plan set as a landscaping/seeding plan sheet or, if no

landscaping is proposed, as a detail for all proposed seed mixes. Seed mixes proposed should be pollinator friendly.

- §75-59(G)(2)(g) – “Stormwater retention and treatment systems shall be built in accordance with the Town of Rosendale MS4 and New York State stormwater design regulations for equipment pads, access roads, equipment structures and any other impervious surfaces proposed for a project.” No SWPPP has been provided and the submitted site plan shows no locations or details as to how stormwater created by the project will be handled. As the Applicant prepares the SWPPP and presents the pre-construction/post-construction covertedype calculations, the fact that the site is currently forested and will be converted to meadow/grassland should be taken into consideration in any proposed stormwater retention/treatment modeling. All stormwater measures should be depicted in the final site plan set along with associated details.
- §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.
- §75-59(G)(2)(i) – A large amount of tree clearing is proposed in close proximity to endangered bat and protected bald eagle habitat. It is anticipated that the Applicant will be working with the USFWS, the Corps and NYSDEC to determine extent of potential adverse impacts to these species. The results of the consultation process and any takings permits applications that may be required should be shared with/provided to the Planning Board.
- §75-59(G)(2)(j) – “Driveways and access roads within the lot, if necessary, shall be a gravel or crushed stone surface and shall be designed to minimize the extent of roadways constructed, disturbance and soil compaction.” While the access road is proposed to be gravel, there is no indication as to if it is proposed to be limited use pervious gravel or impervious standard gravel that will require stormwater retention/treatment. The Applicant should provide additional details on the intended plan for the road and include standard details for the selected access drive on a detail sheet in the final site plan set.
- §75-59(G)(2)(l) – *“Any lighting proposed for security or other necessary purposes shall be at the discretion of the Planning Board. All lighting shall be in conformance with Rosendale Town Code and shall be IESNA Dark Sky Compliant. Cut sheets for proposed fixtures and illumination spill (footcandle) diagrams shall be provided to the Planning Board if on-site lighting is proposed.”* While not anticipated, that Applicant should confirm no lighting is proposed for the project.
- §75-59(G)(2)(m) – *“The Planning Board may require the applicant to submit a wetland delineation report and map depicting federal and state jurisdictional*

streams and wetlands located on the project site. The applicant should avoid impacts to wetlands and streams.” The Applicant indicates that mapped federally and state-jurisdictional wetland/stream resources are located on the project site but gives no indication as to if a formal wetland and other waters of the U.S. delineation has been completed. A formal wetland delineation should be completed during the growing season and the final wetland delineation report should be submitted to the Planning Board for review in order to determine if any unmapped regulated features are present on the project site and be illustrated on the site plan.

Operation & Maintenance Plan

- The Planning Board should review and discuss what it feels is the optimal mowing frequency.
- It is still unclear as to whether any permanent post construction stormwater management facilities will be needed. If, once the design is undertaken, it is determined that PCSM facilities will be required, the O&M plan should be revised to include regular inspection and maintenance (cleaning sediment traps, skimming film, etc.) of PCSM facilities.
- There is no mention of snow clearing for the access road. The Applicant should include a line item for snow clearing and its anticipated frequency, given that the site should be routinely accessible for emergency services throughout the year.
- The O&M plan should specify the time of day that maintenance or repair work will be conducted. It is recommended that the O&M plan spell out that non-emergency maintenance will be conducted between 8:00AM and 5:00 PM Monday through Friday.
- 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.
- The Applicant should provide additional detail as to the assurance of access along Chetta Lane, a private road, to the project site. If the terms of the lease will include a provision of access to EDF and any successors for the perpetuity of the life of the project, then a separate Road Maintenance Agreement (RMA) between the landowner and the Applicant is likely unnecessary.

Miscellaneous Zoning Code Comments

- §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.

The following is discussed about this application:

- This property was previously used by Johnny on the Spot as a dumping location.
- It is currently being cleaned up with oversight and permits issued from the NYS DEC.
- The solar panels will be remotely moved to follow the sun.
- The road is already existing as a gravel road to the property.
- There will be a gate at the beginning of the road to limit access.
- The area where the panels will be located is already mostly cleared from the previous business use and from older agricultural use.
- This will be the first community solar project in Rosendale.
- No battery storage is proposed on site in this application, the power generated going directly into the grid.
- No water retention ponds are currently planned as they are not anticipated to be needed.
- No impervious surfaces are proposed except the existing gravel road that they do not plan on paving and the solar panel units themselves.
- Access for fire/emergency apparatus
- There will be a system shutoff at the road.
- Decommissioning plan will be submitted by applicant.
- The board requests renderings of the solar units.
- The access road needs to be 20 feet wide unless a waiver is given by the Fire Marshal for the exception.
- Dave compiled a list of involved agencies for the SEQRA review and he will send it to the agencies for their review and comments.
- NYS thruway should be included on the list of involved agencies.
- Town of Esopus should also get the application for review.

Dave Plante discloses that he has worked on solar projects in other towns as the applicant for the solar company but he is not representing or working on any solar projects for Lewis Solar LLC in the town of Rosendale.

Chair Liggan thanks Dave for his disclosure but there does not appear to be any conflict for him not to be involved in this application review as our planning consultant.

Chairman Liggan reads out loud resolution #1 of 2022.

Town of Rosendale Planning Board
Resolution #1 of 2022

WHEREAS, the Planning Board of the Town of Rosendale has received an application from Lewis Solar Partners LLC for Site Plan Approval and Special Use Permit along with a Full Environmental Assessment Form, preliminary site plan and other supporting materials for a proposed 5.0 MW community solar project located west of Coutant Road and east of Interstate 87 (Tax ID: 62.4-6-33.100) in the Town of Rosendale, Ulster County, New York; and,

WHEREAS, the application was made in accordance with the requirements of the Town of Rosendale Code; and,

WHEREAS, the subject parcel is located in the A Residence District; and,

WHEREAS, the New York State Environmental Quality Review Act (SEQRA) regulations under 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund or approve an action until it has complied with the requirements of SEQRA; and,

WHEREAS, the SEQRA regulations found under 6 NYCRR 617.6(a) require that as soon as an agency receives an application for approval of an action it shall determine: (1) whether the action is subject to SEQRA; (2) whether the action involves a Federal Agency; (3) whether other agencies are involved; (4) the appropriate preliminary classification of the action; (5) whether a full or short environmental assessment form or an Environmental Impact Statement is necessary; and (6) whether the action is located within an agricultural district and subject to applicable provisions of the Agriculture and Markets Law; and,

WHEREAS, 6 NYCRR 617.6 establishes procedures for uncoordinated review of Unlisted Actions; and,

WHEREAS the need exists for the establishment of lead agency for this project pursuant to SEQRA, 6 NYCRR 617;

NOW THEREFORE BE IT RESOLVED, that the Rosendale Planning Board of the Town of Rosendale determines that the application by Lewis Solar Partners LLC for the proposed community solar farm located west of Coutant Road and east of Interstate 87 and in the Town of Rosendale, Ulster County, New York, constitutes an action that is subject to SEQRA; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board hereby determines that the action shall be designated as an "Type I" action pursuant to SEQRA; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board hereby determines that the proposed action is not located within an established agricultural district and is therefore not subject to the provisions of the Agriculture and Markets Law; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board hereby determines that a coordinated SEQRA review of the action will be undertaken in accordance with 6 NYCRR 617.6; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board hereby determines that involved agencies with respect to this action primarily includes the Town of Rosendale Planning Board, Town of Rosendale Town Board, Ulster County Planning Board, Ulster County Industrial Development Agency, Kingston City School District, New York State Energy Research and Development Agency (NYSERDA) and New York State Department of Environmental Conservation (NYSDEC) Region 3; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board as an involved agency with the broadest power of investigation of the environmental impacts of the proposed action, hereby declares its desire to assume Lead Agency status for the purpose of SEQRA review; and,

BE IT FURTHER RESOLVED, that the Rosendale Planning Board instructs its Planning Consultant, Bergmann Associates, to file the Rosendale Planning Board's Notice of Intent to serve as SEQRA Lead Agency on this project with the SEQRA Involved Agencies identified within this resolution; and,

BE IT FURTHER RESOLVED, that all Involved Agencies have thirty (30) calendar days to respond to the Rosendale Planning Board's Notice of Intent to serve as SEQRA Lead Agency on this application, and that no response within thirty (30) calendar days constitutes agreement that the Rosendale Planning Board serve as SEQRA lead agency for this application.

On a motion made by John Ivankovic, seconded by Nick Mercurio, the above resolution is thereby put to a voice vote.

Roll Vote:

Chairman Liggan: Yes
Vice Chairman Luckner: Yes
Planning Board Member Brown: Yes
Planning Board Member Ivankovic: Yes
Planning Board Member Mercurio: Yes

Motion Passes: 5 Yay Votes, 0 Nay Votes, 0 Abstention, 0 Recusal

Motion made by John Ivankovic, seconded by Jere Brown, pursuant to §75-40(C)(3)(e) of the Rosendale Town Code, to refer this application to the Chief of Police, the Tillson Fire Chief, the Highway Superintendent and the Sewer/Water Engineer for review and comment.

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

Motion carried.

Motion made by Jere Brown, seconded by Vice Chairman Jim Luckner, to set a public hearing for this application to take place on April 14th 2022, pursuant to §75-40(B)(2)(a) of the Rosendale Town Code.

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

Motion carried.

The board discusses if this is a complete application that can be referred to the Ulster County Planning Board. They decide it is not yet a complete application because the Full Environmental Assessment Form needs to be revised/updated and a SWPPP needs to be submitted and reviewed.

OLD BUSINESS:

Application: #2021-5-Lot Line Adjustment

SBL: 62.4-2-21 and 62.4-2-22

Location: 190 Breezy Hill Road and 194 Breezy Hill Road

Applicant: Marcia Kline and Ellen Sribnick

Marcia Kline requested an extension on her date for filing the Lot Line Adjustment plats with the county. She was delayed and missed the original application approval deadline because she was waiting for her lawyer to produce updated deeds that reflected the lot line adjustment.

Motion made by Vice Chairman Jim Luckner, seconded by Jere Brown, to grant one extension of 90 days, per Rosendale Town Code §60-39(B)(2) for application #2021-5-Lot Line Adjustment Lands of Marcia Kline and Ellen Sribnick, at the applicant's request.

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

Motion carried.

ADJOURNMENT:

Motion made by Jere Brown, seconded by John Ivankovic, to adjourn at 8:40 pm

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

Motion carried.

Respectfully submitted,
Brisa Casas
Planning Board Clerk