

TOWN OF ROSENDALE PLANNING BOARD MINUTES

THURSDAY, MAY 12TH, 2022
RONDOUT MUNICIPAL CENTER
1915 LUCAS AVE.
COTTEKILL, NY 12419

Chair Billy Liggan, called the meeting to order with the Pledge of Allegiance at 7:15 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 (via video conferencing)
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 Randi Morf, to accept the minutes from April 14th, 2022.

Roll Vote: Chairman Billy Liggan – Yes, Vice Chairman Jim Luckner – Yes, Jere Brown – 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 and Chris Koenig are present on behalf of this application.

The public hearing was left open from the April 14th 2022 Planning Board meeting. No written comments were received between April 14th 2022 and May 12th 2022.

The board reviews Bergmann Memo Comments from Dave Plante:

NYSDEC SWPPP Guidance Memorandum:

- **Original Comment: 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.**
- Bergmann Response. Partially Addressed. A Grading Limit Line was added around the entire project. Unless the entire area within the grading limit line will be graded, the specific areas where grading will occur should be clearly delineated on the plans.

Drainage Maps: All comments addressed.

Stormwater Management Planning:

- **Original Comment: The SWPPP shall include the methodology used for stormwater runoff calculations.**
- Bergmann Response: Comment Not Addressed. Methodology for calculating Stormwater Runoff should be provided, including the methods used to calculate each design parameter such as the curve number and time of concentration.

Draft eNOI:

- **Original Comment: Provide a response to item #37 of the eNOI.**
- Bergmann Response: Comment Not Addressed. The Pre-Development and Post-Development discharge numbers should be added to the eNOI.

Plans:

- **Original Comment: 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.**
- Bergmann Response: Comment Partially Addressed. A Grading Limit Line was added around the entire project. Unless the entire area within the grading limit line will be graded, the specific areas where grading will occur should be clearly delineated on the plans.
- **Original Comment: 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.**
- Bergmann Response: Comment Partially Addressed. Please provide proof of approval from the Town Fire Department/Fire Marshall noting that slopes steeper than 10% are acceptable for fire access and that any waivers necessary under New York State Fire Code with respect to fire apparatus access roads (i.e. width, distance between turnarounds, etc.). This could be done as a condition of a conceivable project approval granted by the Planning Board. In addition, specify on the plans where geoweb system will need to be installed.
- **Original Comment: Silt Socks shall be installed parallel to the contours. The plans should be revised accordingly.**
- Bergmann Response: Comment Not Addressed. Silt socks are still shown to be installed across the contours. Please revise silt socks to be parallel to the contours per NYSDEC's blue book.
- **Original Comment: 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.**
- Bergmann Response: Comment Not Addressed.
- **Original Comment: The entrance driveway is required to be a minimum of 20 feet wide, have turnaround every 500 feet and be a maximum of 10% slope per the International Fire Code. Please revise the plans accordingly or provide proof of the**

Town of Rosendale Fire Department approval of the proposed driveway for the project site as mentioned in section 2.2 of the SWPPP.

- Bergmann Response: Comment Not Addressed. Please provide proof of approval from the Town Fire Department/Fire Marshall noting that slopes steeper than 10% are acceptable for fire access and that any waivers necessary under New York State Fire Code with respect to fire apparatus access roads (i.e. width, distance between turnarounds, etc.). In addition, specify on the plans where geoweb system will need to be installed.
- ***Original Comment: 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.***
- Bergmann Response: Comment Not Addressed. Please provide additional details and/or an insert of the crossing at a smaller scale similar to the “Electrical Interconnect Detail” provided on sheet C-105 that clearly illustrates, including a call out if necessary, that no work will be conducted below the top of bank of the NYSDEC Class B stream. It would also be recommended that additional fencing and signage indicating “Environmentally Sensitive Area – Keep Out” be called out/detailed in the final site plan set to keep contractors out of the Class B stream, in addition to any silt fence or other erosion controls proposed between the road and the stream.
- ***General SWPPP Comment*** – The revisions requested of the SWPPP could be added as a condition of a conceivable Planning Board approval for the project.

Preliminary Site Plan (dated 4/20/22)

- ***Original Comment: §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.***
- Bergmann Response: Partially Addressed. As indicated above, a SWPPP has been prepared by the Applicant and reviewed by Bergmann. Our comments are included above. Final stormwater measures are depicted on the revised site plan set but need to be finalized in accordance with the comments above (i.e. removing silt fence on plans that is depicted to be perpendicular to contours, provide detail for any stream avoidance

measures, etc.). The changes to the final site plan could be added as a condition of a conceivable Planning Board approval for the project.

Miscellaneous Comments

- **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: 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. Copies of recent correspondence with NYSDEC was submitted in the April 2022 submission package. EDF is committed to following the conservation guidelines and permit requirements prescribed by the NYSDEC to minimize impacts to T&E species. It is recommended that as a condition of any potential future approval, the Rosendale Planning Board include a requirement that the Applicant adhere to any monitoring, permitting and/or mitigation measures required by NYSDEC and that copies of any required measures be provided to the Planning Board for its official file.
- **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. A decommissioning plan has now been provided. Bergmann has reviewed this and offered 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;**
- Bergmann Response: Comment Addressed. This agreement has been provided to the Town Board and Town Attorney Mary Lou Christiana for review. The satisfaction of any Town Board and/or Town Attorney comments on the decommissioning agreement,

estimate and/or bond should be added as a condition of a conceivable Planning Board approval for the project.

The board and the applicants discuss the Bergmann Memo Comments:

- Kathy Haake – She has email correspondence with the Rosendale Fire Marshal about the proposed road installation and the road finish. She informs the board her team decided to add a turnaround at the beginning of the road for cars to turn around if they find themselves lost on Coutant Road.
- The board would like her to request a letter from the Fire Marshal with the approval of the proposed site road.
- The SWPPP was updated in accordance with Dave’s memo comments.
- Chris Koenig is confident they can address all of the required changes detailed in Dave Plantes memo comments.
- The decommissioning plan has been updated to address the memo comments.

Public Comment: None

Motion made by Vice Chairman Jim Luckner, seconded by Jere Brown, to close the public hearing at 7:34pm

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

Motion carried.

- ❖ Chairman Billy Liggan reads out loud the Full Environmental Assessment Form Part 2 while answering and completing it with the Planning board members.
- ❖ Vice Chairman Jim Luckner reads out loud the Full Environmental Assessment Form Part 3 while answering and completing it with the Planning board members.

RESOLUTION # 2 of 2022

DETERMINATION OF A NEGATIVE DECLARATION OF SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT FOR THE PROPOSED EDF RENEWABLES NY-LEWIS SOLAR PROJECT

WHEREAS, Lewis Solar Partners LLC is proposing a 5.0 MW community solar project located at 173 Coutant Road in the Town of Rosendale, Ulster County, New York, and

WHEREAS Lewis Solar Partners LLC submitted an application to the Town of Rosendale Planning Board dated January 27, 2022 for the proposed project, and

WHEREAS the proposed project will involve the installation of ground mounted photovoltaic panels as well as an associated access road, electric utility upgrades, stormwater conveyance, power inverters, and perimeter fencing for the solar farm, and

WHEREAS, a public hearing was held for public comment on April 14, 2022, and

WHEREAS, preliminary project design has been developed in conformance with the applicable environmental laws, design standards, and accepted engineering practice.

WHEREAS, a delineation of Wetlands and other Waters of the U.S. was conducted, dated March 25, 2022, in accordance with the U.S. Army Corps of Engineers 1987 Methodology and that project plans avoid wetland impacts to the maximum extent practicable, and

WHEREAS, all necessary correspondence was submitted and received by the United States Fish and Wildlife Service (USFWS) and the New York State Department of Environmental Conservation (NYSDEC) to ensure that the proposed project will minimize adverse impacts on state and federally listed threatened and endangered species, and

WHEREAS, Correspondence was submitted to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) to determine the effect of the project on Historical and Cultural Resources and having received written confirmation from OPRHP dated April 15, 2022 confirming the project will not require a Zone of Visibility Impact (ZVI) Analysis given the project's remote location, and that the Applicant intends to avoid cultural and historical resources through the completion of a Phase IA/IB archeological study, and

WHEREAS, the project site is not located in an Ulster County Agricultural District delineated by the New York State Department of Agriculture and Markets, and

WHEREAS, Part 1 of a Full Environmental Assessment Form (EAF) has been completed and reviewed in conjunction within determinations made by other "Involved Agencies" as required pursuant to 6 NYCRR 617.6 of SEQRA to the following Involved Agencies:, New York State Department of Environmental Conservation (NYSDEC) Region 3, the New York State Energy Research and Development Authority (NYSERDA), the Ulster County Department of Planning Board and Industrial Development Agency, the Town of Rosendale Town Board and Kingston City School District and said agencies concurring that the Town of Rosendale Planning Board assume the role of the SEQRA Lead Agency, and

WHEREAS, Part 2 and Part 3 of a Full Environmental Assessment Form (EAF) has been completed and reviewed by the Planning Board and the Planning Board has determined that no impacts are potentially significant, and

WHEREAS, the proposed project has been reviewed and classified as a "Type I Action" pursuant to 6 NYCRR 617.4(B)(8) of SEQRA.

NOW THEREFORE BE IT RESOLVED, that the Town of Rosendale Planning Board hereby issues a "Negative Declaration of Significant Adverse Environmental Impact" in accordance with SEQRA for this project, and

BE IT FURTHER RESOLVED, that the Town of Rosendale Planning Board authorizes Bergmann as the Town of Rosendale's Planning Consultant to publish said Notice of this SEQRA Negative Declaration of Environmental Impact in the NYSDEC Environmental Notice Bulletin

and to notify all SEQRA involved and interested agencies and the applicant of the issuance of this SEQRA Negative Declaration, and

BE IT FURTHER RESOLVED, that the Town of Rosendale Planning Board directs the Rosendale Town Clerk to file this SEQRA Negative Declaration of Significant Adverse Environmental Impact in the Town's official files for this project.

On a motion by John Ivankovic and seconded by Randi Morf.

Yays All, Passed Unanimously on May 12th 2022 by order of the Rosendale Planning Board

Motion made by John Ivankovic, seconded by Randi Morf, for approval of Resolution #2 of 2022

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

Motion carried.

The Rosendale Planning Board reviews the referral response from the Ulster County Planning Board and discusses the proposed required modification comments.

Motion made by Vice Chairman Jim Luckner, seconded by Jere Brown, for the following Ulster County Planning Board review comments:

1. To override the required modification comment #1 pertaining to Wildlife Fencing because the proposed fence with a 6-inch clearance for wildlife mitigation is sufficient.
2. To accept the required modification comment #2 pertaining to Archaeological and comment #3 pertaining to Stormwater.

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 Vice Chairman Jim Luckner, seconded by Randi Morf, to approve application #2022-1- Special Use Permit-173 Coutant Road- Lewis Solar Partners LLC with the following conditions:

1. That the final Stormwater Pollution Prevention Plan (SWPPP) be reviewed and approved by Bergmann in accordance with the comments issued in the Bergmann comment memo dated May 6, 2022 and that Bergmann facilitate signature of the MS4 acceptance form with the Town of Rosendale MS4 Officer for filing by the Applicant with NYSDEC.
2. That the final Site Plans be reviewed and approved by Bergmann in accordance with the comments issued in the Bergmann comment memo dated May 6, 2022 and any subsequent comments from the Rosendale Planning Board and/or Bergmann.
3. That the Applicant obtain formal written approval and or/waiver of approval from the Town of Rosendale Fire Marshall regarding the final dimensions and requirements of the access road with respect to compliance with NYS Fire Code.
4. That the final decommissioning plan be reviewed and approved by the Town of Rosendale, the Rosendale Town Attorney and Bergmann in accordance with the comments issued in the Bergmann comment memo dated May 6, 2022 and any subsequent comments from the Rosendale Planning Board and/or Bergmann.
5. That the Applicant renew the Special Use Permit and the accompanying decommissioning bond amount every five (5) years after the receipt of conditional Special Use Permit and Site Plan approvals from the Rosendale Planning Board for the life of the project, including but not limited to reviews on or about the years 2027, 2032, 2037, 2042, 2047, 2052, 2057 and 2062.
6. All escrow fees are paid and all outstanding invoices by the Town's engineering, planning and legal consultants have been satisfied.

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 Jere Brown, seconded by John Ivankovic, to refer the decommissioning plan to the Rosendale Town Board for review and approval.

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

Motion carried.

ADJOURNMENT:

Motion made by Jere Brown, seconded by Vice Chairman Jim Luckner, to adjourn at 8:42 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