

MINUTES
LEWIS COUNTY PLANNING BOARD
February 21, 2019

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in Room 327 on the 3rd floor at the Lewis County Court House, Lowville, New York. Roll call was requested by Mr. Petersen.
- (2) **Roll Call:** Board Members Present: Tim Petersen, Gary Rosiczowski, Michael Kaido, William Burke, and Warren Shaw. Staff Present: Casandra Buell, Senior Planner, and Frank Pace, Director of Planning. Additional attendee(s): Nick Altmire, Linking Lewis County.
- (3) **Reading and Approval of Minutes:** The January 17, 2019 meeting minutes were received and there were no modifications made by the Board members present. Mr. Rosiczowski motioned to approve the minutes; Mr. Burke seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:** None
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

Mrs. Buell read the following review to the Board:

VILLAGE OF LOWVILLE VILLAGE BOARD

Proposed temporary moratorium on land use activities involving installation of rooftop signs within the Village of Lowville.

Village of Lowville – Applicant

The Village of Lowville Village Board is proposing a temporary moratorium on the land use activities to allow the Village of Lowville Board of Trustees adequate time to review its current laws and to update regulations in order to ensure the health, safety and welfare of the residents. Since a moratorium is considered a Type II action, no further SEQR review is required. The temporary term is set for a period of nine months from the file date with the Office of the New York State Secretary of State. Current zoning does not appear to include a specific definition of “rooftop signs” and it would be beneficial for the proposed moratorium to include such language so as to avoid misinterpretation.

Recommendation: Approve with condition

To avoid misinterpretation, the proposed moratorium should include the intended definition of “rooftop signs” as it is not currently defined in the Village of Lowville Zoning Law.

After a brief discussion regarding what could be interpreted as a “rooftop sign,” a motion was made by Mr. Shaw to approve with said condition. Mr. Petersen seconded the motion, which carried unanimously.

Mrs. Buell then read the following review:

TOWN OF DENMARK TOWN BOARD

Proposed zoning text amendment to the Town of Denmark Zoning Law that amends the height restrictions and would eliminate area and lot coverage provisions pertaining to solar structures.

Town of Denmark – Applicant

Town of Denmark Zoning Law Changes

- Article X (A)(2): Height Restrictions
 - Ground or pole mounted small solar energy systems will now not be able to exceed thirty-five (35) feet in height as opposed to the current fifteen (15) feet.
- Article X (B): Principal Solar Energy Systems
 - The proposed amendment will eliminate the area and lot requirement that principal solar energy systems may be installed on a total area that consists of at least five (5) acres but no more than twenty (20) acres. The Town of Denmark is also proposing to abolish the mandate that limits total coverage of a system to 60% of any lot.

In review of the documents provided by the Town of Denmark Clerk, Prudence Greene, the proposed amendments bring Article X of the Town of Denmark Zoning Law into compliance with the regulations detailed in Article IV, Section 410.

Recommendation: Approve

After a brief discussion, Mr. Burke made a motion to approve, seconded by Mr. Kaido, which carried unanimously.

Mrs. Buell then read the third review:

TOWN OF MARTINSBURG PLANNING BOARD

Modification to a prior Special Use Permit and Site Plan Approval for a 78MW wind farm to be installed on parcels over a 6,275-acre area.

Roaring Brook, LLC – Applicant

- *Compatibility With Adjacent Uses:*

The zoning for this area is identified as WPO (Wind Power Overlay). The proposed project is located largely on property owned by Zeager Partnership, LTD in the Town of Martinsburg where the applicant proposes to build sixteen (16) 590’ tall wind towers and four (4) 492’ tall wind towers. A one-story, 5,500 square foot operations and maintenance building is proposed on Flat Rock Road, now west of the intersection with Centerville Road. A network of approximately 12.6 miles of buried electrical collection lines and 6.4 miles of overhead collection lines will be installed. There will be two (2) staging areas totaling fourteen (14) acres and, although there are two (2) proposed locations for a meteorological tower, there will only be one (1) tower installed. The project will be completed in one (1) phase and will take roughly thirteen (13) months to complete. Project construction is anticipated to begin in November 2019 and to be completed by the close of 2020.

It should be noted that the proposed modification largely conforms to the turbine layout that has already been approved by the Town of Martinsburg Planning Board. Out of the 20 turbines, only 3 have 135'-820' location shifts from the previously approved configuration. After reviewing the submitted Project Layout Comparison, it appears that the three (3) relocated towers comply with the Wind Power Overlay land use regulations. On previous plans, a new substation was proposed to be built just off of Lee Road; however, it is now proposed that the project will utilize an existing substation on the Rector Road.

The applicant began initial discussions with Fort Drum regarding potential impacts from proposed wind projects in proximity to the Base in August 2017. According to the submitted EAF Narrative, a draft mitigation agreement has been submitted to Fort Drum and the Department of Defense and is expected to be approved in early 2019. This agreement would remove Fort Drum/DOD objections currently in place with the FAA specific to the turbine locations that were filed in July 2018. The applicant then expects the FAA to proceed with the issuance of Determination of No Hazard for the project.

- *Traffic Generation and Effect:*

A series of roads will be upgraded or constructed during this project. Approximately 9 miles of existing forest access roads will be improved, portions of French and Flat Rock Roads will be improved, and 4.6 miles of new gravel access roads will be created within the project area. As noted on the submitted FEAF, there will be a temporary increase in truck traffic during construction. Construction traffic will be limited to a previously evaluated route following NYS Route 177, Eagle Factory Road, Borkowski Road, Rector Road, Swernicki Road, Flat Rock Road, and Cary Road. Page 7 of the submitted FEAF notes that there will be substantial increases in the traffic above present levels randomly between the hours of 7 AM and 5 PM with roughly 5 construction vehicles per day. The applicant also notes that all roads and intersections utilized for delivery/construction equipment will be restored to a condition equal to or better than their current condition. With construction expected to begin in November, it should be noted that this could have a severe impact on the public roadways that are being utilized for snowmobiling. Borkowski Road, Carey Road and portions of Flat Rock Road are main corridors while the Rector Road route section is a secondary trail. Furthermore, the route identified will utilize the plowed snowmobile trail section of Flat Rock Road. It appears that there was a signed Road Agreement referred to on the November 2009 Site Plan Approval of the facility. This plan should be revisited to ensure that the corridors can continue to be used safely.

- *Protection of Community Character:*

The proposed project is located within a Wind Power Overlay (WPO) District, which overlays a portion of Forest and Rural Residential Districts in the Town of Martinsburg. According to the specifications for setbacks within a WPO District, the setback from the centerline of any road is 300 ft and the setback from side and rear lot lines is also 300 ft. The proposed project meets the roadway setbacks; however, there are several instances where the proposed configuration does not meet the side/rear lot line setbacks. Since the modification has only relocated three (3) out of the originally approved twenty (20) turbines, our review has concluded that the three (3) relocated turbines appear to comply with these setback regulations.

In addition to these setbacks, the WPO District also specifies that that all wind power generating structures are to be located 1,000 ft from existing residential. A lesser setback may be obtained if the owner of the said residential structure is willing to consent to a noise easement. According to the project plans submitted in 2009, there are 6 residential structures located within 1,000 ft of a tower. Three of those structures are owned by participants in the project, the other three are not. According to the law, the owners of all 6 existing residential structures must agree to the lesser setback and consent to a noise easement. The law does not differentiate between participating and non-participating landowners in this circumstance. The applicant has previously stated that the easement is part of the agreement with participating landowners, and that they initiated easements with the three landowners that are not participating in the project. With the removal of 19 turbines from the previous project approval, it appears the noise easements should now only apply to one (1) landowner.

Finally, the operations and maintenance facility located on Flat Rock Road is lacking further details regarding the building setbacks, access, parking, and landscaping.

The proposed project will affect the existing community character.

- *Signage:*
Not addressed in the application.
- *Drainage:*
Wetland permits were issued by both the U.S. Army Corps of Engineers (USACE) and NYSDEC in October and April of 2010, respectively and permit modifications were issued by the NYSDEC in January 2014. Most recently, updated wetland and stream delineations were completed between 2016 and 2018 and there are pending wetland permit applications/request for permit modifications with NYSDEC and the USACE.
- *Parking:*
According to the submitted FEAF, there are 23 proposed parking space and two staging areas totaling 14 acres. Parking will be provided at the O&M facility; however, further details were not included in this referral.
- *Community Facilities:*
There are three significant historical sites within the vicinity of the proposed project. The applicant submitted numerous correspondences between the engineering firm and New York State Office of Parks, Recreation & Historic Preservation (NYSOPRHP) showing that they have done their due diligence. Furthermore, the applicant has requested an agreement with NYSOPRHP that no further evaluation of potential impact to the project modifications be necessary.

The applicant submitted a report that investigated the proposed project modification's potential interference with AM/FM radio reception, mobile phone service, land mobile radio (LMR) coverage, microwave paths, and off-air television reception. The study concluded that potential impacts to communication services do not constitute a significant change from those described in the previously approved EIS.

- *Lighting:*
Based on the submitted SEQR, FAA obstruction warning lights will be mounted on wind turbines in accordance with FAA regulations. Depending on the height of the wind turbine, lights will be located at 322’ or 364’. The O&M building and substation will include motion-controlled lights as necessary for safety and security.
- *Landscaping and Screening:*
No information, other than the size and approximate location, of the operation and maintenance facility has been provided. The specifications in the Wind Power Overlay District state that appropriate landscaping is required to keep the site in a neat and orderly fashion, and that appropriate screening is required to screen accessory structures from adjacent residences.

Recommendation: Approve with the following conditions

1. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.
2. Additional information regarding the exact location and construction of the Operations and Maintenance Facility should be provided to the Town Planning Board for their review.
3. Noise easement(s) should be submitted and reviewed by the Town Planning Board prior to final approval.
4. All wetland permits and the SWPPP should be sent to the Town Planning Board prior to construction.
5. The Town of Martinsburg should re-visit the previously identified “Road Agreement” to address possible recreational impacts.
6. The applicant should confirm that Article X is not applicable to the modification requested in the application.

Prior to discussions, Mr. Rosiczkowski recused himself from this project and the associated final decision of the Board as it is proposed that his property will house the O&M facility.

Mrs. Buell reiterated that the County Planning Board is only reviewing the modifications to the Site Plan/Special Use Permit as a majority of the project has already been approved and assessed. Planning Board members further discussed the concern over the impacts on the roads used for snowmobiling, the need for additional details of the O&M facility, and the visibility of the wind turbines. Following these discussions, Mr. Kaido made a motion to approve with recommended conditions, Mr. Petersen seconded the motion, while Mr. Kaido and Mr. Burke carried the motion. Mr. Rosiczkowski recused himself and did not vote on this project.

Mrs. Buell then read the last review to the Board:

TOWN OF TURIN PLANNING BOARD

Special Use Permit for creation of a communication tower for Mohawk Networks to be located at 5582 State Route 26 in the Town of Turin. Tax Map Parcel: #273.00-01-21.120
Mohawk Networks, LLC – Applicant

The proposed 199’ monopole tower will support the New York State Broadband For All program. Tower installation will include a 12’ wide by 330’ long gravel driveway, underground utilities, a 10’x 10’ concrete slab for associated equipment and a 50’ x 50’ fenced compound. Per the Town of Turin Rural Development Law, Article 4, Section 435 (1), this

will be considered a “temporary special use permit” in that the facility status will be reviewed every 5 years.

The applicant provided the following Project Documentation: 1) SEQR Full Environmental Assessment Form; 2) EAF Mapper Summary Report; 3) Site Plan; 4) Compound Plan; 5) Agricultural Data Statement; and 6) Complete Tower Details.

▪ *Compatibility with Adjacent Uses:*

The proposed project is located in the C District and complies with the intent of Article II of the Town of Turin Rural Development Law applicability. The proposed use also meets the general interpretation of the County Comprehensive Plan, specifically, Chapter 3, Page 68, Subsection: Telecommunications.

According to the submitted Agricultural Data Statement, the proposed use will affect .5 acres of land and the tower will be installed on a property with boundaries within 500 feet of a farm operation located in an Agricultural District. It appears that the proposed project is compatible with the adjacent uses.

It should be noted that according to the current Town of Turin Rural Development Law, Article 3, Section 320, “*A proposed structure in any district shall not exceed 40 feet in height unless such a structure is for agricultural purposes, e.g., a silo.*” On February 11, 2019, the Town of Turin held a public hearing pertaining to the adoption of a zoning text amendment that would revise height restrictions and would thus permit this proposed project to be permitted. The associated textual amendments were passed, and the local law will be sent to NYSDOS for filing.

The base of the proposed monopole tower will be approximately 335’ from NYS Route 26 and, at minimum, approximately 315’ from adjoining lots. These setbacks are compliant with the general regulations defined in Article 2, Section 250 and furthermore within Article 4, Section 435 (3).

Article 4, Section 435 (6) notes that “*All towers shall be fitted with anti-climb devices. Towers shall be designed to provide colocation by at least three providers or designed so that they can be retrofitted to accommodate at least three providers unless such colocation is not feasible as demonstrated by competent engineering or technical proof.*” That said, the applicant should submit plans to the Town of Turin Planning Board that include said anti-climb device on the monopole tower as well as a document that provides colocation possibilities. Furthermore, to comply with Article 4, Section 435 (2), “*the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers and to secure location of antenna on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower.*”

▪ *Traffic Generation and Effect:*

According to the submitted FEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels. It should be noted the proposed tower will generate minor traffic associated with its initial construction. The applicant proposes to install a 12’ wide gravel driveway for ingress/egress from NYS Route 26. As noted on the submitted Erosion Control, Driveway & Compound Details sheet (A-5), disturbed areas will be kept to the minimum area necessary to construct the roadways and associated drainage facilities. As long as the constructed roadway is consistent with

standards for private roads, unless waived, the project will be compliant with the standards set in Article 4, Section 435 (11).

- *Protection of Community Character:*

The tower operation of this facility should easily blend into the community's rural nature without creating any adverse conditions. It should also be noted that, according to page 2, Part 1 of the FEAF, it is projected that the applicant will notify the Federal Aviation Administration of this project by March 29, 2019.

- *Signage:*

It does not appear that signage is proposed by the applicant nor is it permitted by the Town of Turin unless it were to display owner contact information and safety instructions. If the applicant does decide to put a sign on the proposed project area, compliance with Article IV, Section 435(7) is necessary.

- *Drainage:*

According to the submitted FEAF, the proposed action site does contain wetland or waterbodies regulated by a federal, state or local agency and after further analyzing this parcel on the DEC Mapper, the waterbody is considered a "Freshwater Forested/Shrub Wetland." On page 11 of the submitted FEAF, the proposed project site is 100% poorly drained with 0-10% slopes. That said, Part 3 of the submitted FEAF shows that the Town of Turin Planning Board, as the Lead Agency, has issued a negative declaration in that this project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared.

The footprint of the project is less than 1 acre; however, if the project should increase land disturbances over one acre in size, compliance with NYS DEC regulations is required.

Erosion control measures have been adequately supplied on sheet number "A-5" of the submitted site plan.

Based on the information supplied by the applicant, the proposed tower should not create any adverse environmental concerns for the area.

- *Parking:*

A 12'x 20' parking/turnaround area is proposed. These parking lot dimensions appear to comply with Article 3, Section 310 and Article 4, Section 435 (11) requirements.

- *Community Facilities:*

The proposed project is that of a public utility/telecommunication facility. It is proposed that a 10' wide utility easement for Niagara Mohawk Power Corporation will be located on the road front lot line and will connect to an existing utility pole (#NM192).

It should be noted that as an implied condition of Article 4, Section 435 (14), "*the owner/operator shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such annual certification shall be delivered to the enforcement officer during the month of December of each calendar year.*" In addition to this implied condition, the owner/operator will need to submit annual inspection reports and a demolition bond or

other security acceptable to the Town as mandated in Article 4, Sections 435, Subsections 12 & 13.

▪ *Lighting:*

According to the submitted FEAF, Part 1, Page 8, the proposed action will not have any outdoor lighting nor is it permitted by Article 4, Section 435 unless it required by the Federal Aviation Administration (FAA) to assure human safety.

▪ *Landscaping and Screening:*

Per Article 4, Section 435 (8), existing on-site vegetation shall be preserved to the maximum extent possible. It appears that the proposed project site is covered with various shrubs and, as noted on Page 9 of the submitted FEAF, there will be .06 acres of roads/buildings added to the land use and .06 acres of non-agricultural brushlands removed. It is also noted that the site included 0 acres of Forested land; therefore, no trees should be cut. That said, the proposed project appears to comply with the Town of Turin Rural Development Law.

The proposed tower, equipment cabinet and equipment concrete pad will be secured with an eight-foot-high 50' x 50' mesh-screened fence compound. These details meet the requirements of Article 4, Section 435 (10). Per Article 4, Section 435 (9), if the *site abuts residential or public property, including roads, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory structures.* The proposed project site abuts public property, NYS Route 26; however, the actual tower site lease location does not. That said, if the Town of Turin Planning Board decides that screen of this particular tower is not necessary, they can act on Article 10, Section 1025 in which *“the planning board may waive any of the submission requirement above where it deems that the information is either not applicable or is unnecessary to a particular review.”*

Recommendation: Approve with the following conditions

1. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.
2. To comply with Article 4, Section 435 (6), the applicant should submit plans to the Town of Turin Planning Board that include said anti-climb device on the monopole tower as well as a document that provides co-location possibilities.
3. To comply with Article 4, Section 435 (2), *“the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers and to secure location of antenna on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower.”*
4. To comply with Article 4, Section 435 (10), the proposed project may need to included screening vegetation, depending on the review and interpretation of the Town of Turin Planning Board. It should be noted that they can act on Article 10, Section 1025 in which *“the planning board may waive any of the submission requirement above where it deems that the information is either not applicable or is unnecessary to a particular review.”*
5. While the applicant intends to notify the FAA about this project by March 29, 2019, site plans should also be sent by the applicant to Colonel Polk at Fort Drum in order to bypass any potential interference with the military base.

The Board discussed the lack of screening available for the tower in the proposed location and the associated regulations in Article 4 that require adequate screening. All agreed that the Town of Turin Planning Board should evaluate the screening regulations and, if necessary, utilize Article 10. Mrs. Buell went on to further explain that although it is not required, the applicant should send the associated site plans to Colonel Polk. Mr. Rosiczkowski made a motion to approve with the above-referenced conditions, seconded by Mr. Burke, which carried unanimously.

(7) **Report of County Planner:**

Mrs. Buell read the following responses from municipalities regarding previously submitted/reviewed projects:

- Special Use Permit – River of Life Fellowship – Town of Denmark Planning Board – Approved
- Special Use Permit – John Mikulski – Town of Denmark Planning Board – Application Denied
- Zoning Map Amendment Re: NC to AC on Shady Avenue – Village of Lowville – Approved
- Zoning Text Amendment Re: Land Contouring – Village of Lowville – Approved
- Use Variance – Elya Waugh and Tanya Nortz – Town of Martinsburg Planning Board - Approved

(8) **Unfinished Business:** None

(9) **New Business:** None

(10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Kaido, seconded by Mr. Burke, which carried unanimously. Mr. Petersen adjourned the meeting at 3:10 PM.

Respectfully submitted,



Casandra Buell
Senior Planner