

MINUTES
LEWIS COUNTY PLANNING BOARD
January 21, 2021

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in the conference room on the 2nd 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, Donald Cook, Eric Virkler, Tim Hunt, John Lehman, and Jerry King. Staff Present: Casandra Buell, Director of Planning, Tim Widrick, Code Enforcement Officer; Public Present: None
- (3) **Reading and Approval of Minutes:** The draft December 17, 2020 meeting minutes were received. Mr. Petersen motioned to approve the minutes; Mr. Lehman seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:**
Ms. Buell informed the Board about a NEPA survey regarding ACER Associates' plan to install an AT&T cellular tower at 7448 Wildcat Rd in Lyonsdale. ACER is reaching out to the Planning Board because the State Historic & Preservation Office must review and provide comment for compliance with Section 106 of the NYS Historic Preservation Act. They are only seeking comments on the potential impact on historic properties, as it is not part of the local zoning process.
- (5) **Report of Officers:** None
- (6) **Election of Officers:** Mr. Petersen received one nomination to continue his position as Chairman of the County Planning Board. Mr. Virkler motioned to confirm Mr. Petersen as Chairman; Mr. Lehman seconded the motion, which carried unanimously. Mr. Petersen motioned to nominate Mr. Lehman as the Vice-Chair; Mr. Cook seconded the motion, which carried unanimously.
- (7) **Report of Special Committees:**

239-M Review

Ms. Buell read the following review:

Village of Lowville Board of Trustees

Proposed zoning text amendment to the Village of Lowville Zoning Law that would add new definitions for Mixed Use Development, Brew Pub, and Light Industrial Use 1 and to permit such uses in the Village Center (VC) Zone.

Village of Lowville – Applicant

The General Municipal Referral Form was submitted by Joseph Russell, Village Attorney, on behalf of the Village of Lowville.

Village of Lowville Zoning Law Revision

Proposed Amendment to Article II § 201-230:

Adding the following definitions:

Mixed Use Development – A lot or structure with a variety of complementary and integrated uses such as, but not limited to residential, office, light industrial, retail sales and service, general, restaurant/bar/hotel/motel: antique shop; artisan shop.

Brew Pub – An eating and drinking establishment where certain beverages are prepared on the premises for on-site consumption. The brewing and retail sale of such beverages is accessory to the eating and drinking establishment.

Light Industrial Use 1 – A use involving the assembly, manufacturing and/or processing of a product, but not producing noisy or otherwise objectionable disturbances such as vibration, dust, odors, or heavy truck traffic, and not involving the use of heavy machinery.

With the above additions, Article IV§201-420 will be revised to permit the above uses within the Village Center (VC) Zone.

While the Village of Lowville is currently underway updating their 2009 Comprehensive Plan with the Town of Lowville, the addition of the above definitions as permitted uses within the Village Center (VC) Zone emulates the vision set forward for this area in the current Plan. Specifically, these uses would serve as pedestrian destinations and would not involve heavy traffic increases. Both characteristics are encouraged in Village Center Zone section of the 2009 Comprehensive Plan.

Recommendation: Approve

Ms. Buell discussed the differences in definition between a brew pub, craft brewery, and a micro-brewery. A brew pub is focused primarily as an eating and drinking establishment that produces beverages to serve on-site, though selling off-site can be included given state laws. For a micro-brewery, there is a higher threshold for off-site sales. Ms. Buell explained further that Light Industrial Use 1 would cover micro-brewery, as well as other manufacturing processes.

Mr. Hunt asked if there were volume definitions for the various types of breweries out of concern for impact on septic and water systems. Mr. Widrick suggested that part of the site plan review process would account for water usage rather than including a production quantity in the Village's zoning law.

Mr. Virkler asked if there is a separate permitting process for water consumption. Ms. Buell responded that such a capacity issue would be evaluated by the Village and Planning Board since the impact to community facilities would prompt a SEQRA review.

Ms. Buell mentioned that the request to include these definitions in the zoning is guided by Lowville's Comprehensive Plan update and vision for downtown pedestrian destinations.

Mr. Virkler asked if the Village of Lowville has plans to include these new definitions in other zones, such as auto commercial. Ms. Buell suggested following up with the Village about what they want to see in their industrial corridor.

Mr. Hunt mentioned an instance in Madison County involving farm brewery as a defined use in the zoning law. Once the establishment was created, NYS Agriculture and Markets law asserted that zoning law no longer applies. This led to additional uses occurring that were not

originally stipulated in the municipal zoning law. Mr. Widrick mentioned that Section 540 states that site approval is required again for an accessory use change.

Mr. Virkler and Mr. Petersen suggested adding a comment about adding language to exclude a farm brewery or more clearly defining the difference for the Village Center (VC) Zone.

Mr. King made a motion to approve with the following note: “In relation to the Brew Pub use, further attention should be given to addressing the license capacity that the Village of Lowville would deem appropriate for the VC Zone (ex. Farm Brewery); Mr. Virkler seconded the motion, which carried unanimously.

Ms. Buell then read the last review:

TOWN OF MARTINSBURG PLANNING BOARD

Special Use Permit for the installation of a 9.7 acre ground-mounted 2.158 MW solar array to be located at 6424 State Route 26 in the Town of Martinsburg.

Tax Map Number 243.00-01-15.200

NY Solar One, LLC – Applicant

The applicant provided the following Project Documentation: 1) SEQR Short Environmental Assessment Form (SEAF); 2) Agricultural Statement; 3) Tax Map; 4) Communication from Involved Agencies (NYS Ag & Markets, NYS DOT, NYSERDA); and 5) Site Plan.

Added 1/11/2021: Full Environmental Assessment Form (FEAF) with EAF Mapper Summary and a Soil Map.

According to Article II § 240-7, each contiguous ground-mounted (freestanding) solar energy structure is considered an accessory structure. Article V § 240-40.1 notes that *all ground mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts in the Town, subject to the following requirements:*

1. *The location of the solar collector meets all applicable setback requirements of the zone in which it is located.*
 - According to the submitted preliminary site plan, the proposed solar project will exceed the minimum 75’ state road setback and 25’ side yard setback requirements.
2. *The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.*
 - According to the submitted FEAF, the largest proposed structure (solar arrays) will be 8 feet in height.
3. *A building permit has been obtained for the solar collector.*
 - It was confirmed with the applicant, via phone, that the building permit will be obtained once the project is approved by NYSERDA.
4. *All electrical wiring from the array is to be underground as per the Code.*
 - According to the project description submitted on the FEAF, there will be a small trench for running underground cables in between the 11 rows of solar panels. There will be four (4) overhead poles added on the south side of the proposed driveway to tap connect (overhead) with the existing National Grid pole.

- *Compatibility with Adjacent Uses:*

The zoning for this area is identified as A (Agricultural) and the proposed action is located on what appears to be an actively farmed parcel within Ag District 6. According to the submitted Agricultural Data Statement, there are 2 farming operations within 250 feet of the proposed project. While the applicant did submit communication from NYS Ag & Markets regarding the Notice of Intent (NOI), a follow-up with a NYS Ag & Markets Senior Environmental Analysis found that they do not have any concerns with the proposed action as it did not impact many soils in groups 1-4; however, they asked that the applicant adhere to the Department's Guidelines in their entirety.

The proposed facility complies with the intent of Article IV, § 240-14 of the Town of Martinsburg allowed uses. While a majority of the proposed project complies with Article V § 240-40.1, the applicant should provide the Town of Martinsburg Planning Board with information that demonstrates that the solar system will be minimally visually intrusive to surrounding properties, buildings, roads, aviation. Materials should meet the expectations set in Article V § 240-40.1 (C). As required by Article V § 240-40.1 (G), if *solar storage batteries are to be included, they must be placed in a secure container or enclosure meeting the requirements of the NYS Building Code when in use, and, when no longer used, they shall be disposed of in accordance with all applicable laws and regulations. Notification of the installation and/or removal of solar storage batteries shall be made to the fire department responsible for response to the location where the batteries are installed.*

The proposed use also meets the general interpretation of the County Comprehensive Plan, specifically, Chapter 3, Page 60, § Opportunities/Alternative Energy.

- *Traffic Generation and Effect:*

According to the submitted SEAF and 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 solar project installation will generate minor traffic associated with its initial construction.

The proposed project will create a 20' egress/ingress driveway from NYS Route 26. According to the submitted FEAF and communication with NYSDOT, a driveway access permit has been filed with NYSDOT; however, according to the Tom Compo (NYSDOT) a permit has not yet been issued. Construction shall not commence until this permit has been issued and filed with the Town of Martinsburg.

- *Protection of Community Character:*

As noted on page 2, Part 1 of the submitted SEAF and page 12, Part 1 of the FEAF, the applicant has identified that the proposed action is not located in nor does it adjoin a state listed Critical Environmental Area and, according to the SEAF, is consistent with the predominant character of the existing built or natural landscape. Being that there will be approximately 7,500 solar panels added to this agriculture field, the proposed project should not be considered as consistent with predominant character. Additionally, according to the FEAF, there are no highly productive soils on the project site; however, the submitted NRCS land soil survey shows that the proposed action site is 60% Nellis Loam with 8-15 % slopes, a class 3 soil that has severe limitations that restrict the choice of plants and/or that requires special conservation practices. According to Part 3 of the SEAF, the Town of Martinsburg Planning Board (Lead Agency) has determined that the proposed action will have little to no impairment on the

character or quality of the existing community and has issued a Negative Declaration on the proposed action.

- *Signage:*

No signage is proposed by the applicant nor is it required by the Town of Martinsburg. It is highly recommended that the applicant post warning signs with the owner's contact information at the solar array entrance in case of emergency as well as signs that identify the location of any underground transmission lines. If the applicant does put a sign on the proposed project area, compliance with Article V, § 240-33 is necessary.

- *Drainage:*

According to page 11, Part 1 of the submitted FEAF, the proposed project site does not contain wetlands; however, as part of the review process, an EAF mapper noted that this tax map parcel does contain a wetland. After further research, it was found that the proposed action site is land hooked to a parcel located directly across NYS Route 26 and while the contiguous parcel does contain wetlands; the actual project site parcel does not.

While the initial SEAF had 10.2 acres of ground disturbance listed, the FEAF noted there would only be .5 acres of ground disturbance. Regardless, any land disturbances over 1 acre in size requires compliance with NYS DEC regulations.

- *Parking:*

No definitive parking areas are proposed; however, the proposed gravel road extensions include turnaround locations that can be utilized for minimal parking necessities.

- *Community Facilities:*

There are no proposed services to be used by the facility; the applicant notes that the project does not require water or sewer service; however, since the project lines will tie into an existing power line, a National Grid study is already underway. To prove compliance with Article V § 240-40.1 (F), a copy of the interconnection agreement shall be provided to the Town Code Enforcement Officer prior to operation.

- *Lighting:*

According to the submitted FEAF, the proposed action includes outdoor lighting; one (1) small 60W light bulb will be installed 8 feet above the equipment pad area for access during emergencies and/or evening maintenances.

- *Landscaping and Screening:*

The applicant proposes to erect a security fence that will enclose the project area; however, the fence height was not provided. As part of this review, the applicant was reached via phone and acknowledged that the fence would not exceed 6 feet; however, according to NEC mandates, it cannot be below 6 feet. Other than this fence, there does not appear to be any additional landscaping and/or screening for this project. Being that Article V § 240-40 requires that no fence exceed 6 feet, the proposed action is compliant. As mentioned under the section "Compatibility with Adjacent Uses" above, to comply with Article V § 240-40.1, prior to approval, the Town of Martinsburg Planning Board should decide whether the proposed action be minimally visually intrusive to surrounding properties, buildings, roads, aviation.

Recommendation: Approve with the following conditions

1. In order to prove compliance with Article V § 240-40.1 (F), a copy of the interconnection agreement shall be provided to the Town Code Enforcement Officer prior to operation.
2. While the initial SEAF had 10.2 acres of ground disturbance listed, the FEAF noted there would only be .5 acres of ground disturbance. Regardless, if the action results in land disturbance over 1 acre in size, compliance with NYS DEC regulations is required.
3. To comply with Article V § 240-40.1, prior to approval, the Town of Martinsburg Planning Board should decide whether or not the proposed action be minimally visually intrusive to surrounding properties, buildings, roads, aviation. Furthermore, to ensure said compliance with aviation, site plans should be sent by the applicant to the appropriate officials at Fort Drum to bypass any potential interference with the military base and their aviation operations.
4. As required by Article V § 240-40.1 (G), if *solar storage batteries are to be included, they must be placed in a secure container or enclosure meeting the requirements of the NYS Building Code when in use, and, when no longer used, they shall be disposed of in accordance with all applicable laws and regulations. Notification of the installation and/or removal of solar storage batteries shall be made to the fire department responsible for response to the location where the batteries are installed.*
5. While the applicant has applied for a NYS DOT permit, construction shall not commence until the appropriate driveway access permit has been issued and filed with the Town of Martinsburg.
6. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Ms. Buell highlighted the visual impact that the project could have on the community without any screening. Mr. Virkler agreed that screening could be an issue and raised concern regarding the project's location on prime agricultural land.

Mr. Lehman raised concern about tree variety and maintenance for screening, specifically regarding spruce trees. Mr. Petersen suggested enhancing fencing to provide greater screening. Ms. Buell recommended providing the choice of evergreen trees, a berm, or a combination of both for screening.

Mr. Petersen suggested asking for a landscaping and screening plan prior to construction in addition to defining the type of screening required. It was requested to revise condition #3 to read: "To comply with Article V § 240-40.1, the applicant shall demonstrate that the solar collection system will be minimally visually intrusive to surrounding properties, buildings, roads, aviation. A landscaping and screening plan, to include the planting of evergreen trees and/or the installation of a berm, should be submitted to and approved by the Town of Martinsburg Planning Board prior to the approval of this permit. The zoning enforcement officer should ensure that the approved plan is carried out and that the landscaping is maintained. Furthermore, to ensure said compliance with aviation, site plans should be sent by the applicant to the appropriate officials at Fort Drum to bypass any potential interference with the military base and their aviation operations."

Ms. Buell identified solar battery storage compliance as another condition in the event the applicant seeks to add them to the project site.

Mr. Petersen inquired about access during winter for emergency situations. Ms. Buell stated that Lewis County Director of Emergency Management reviewed the site plan. He did not object to the site plan. In general, Emergency Management's primary concern with any solar project is the proximity of transmission lines to residences and barns due to the risk of static discharge.

Mr. King suggested obtaining feedback from municipalities on emergency response plans and protocol for solar arrays.

With no further questions or comments, Mr. Cook made a motion to approve with the above conditions with the addition of a landscaping and screening plan requirement to #3 along with the following note: "While it is not mandated by the Town of Martinsburg Zoning Law, it is highly recommended that the applicant post warning signs with the owner's contact information at the solar array entrance in case of emergency as well as signs that identify the location of any underground transmission lines. If the applicant does put a sign on the proposed project area, compliance with Article V, § 240-33 is necessary." Mr. Lehman seconded the motion, which carried unanimously.

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

- Response from municipalities regarding previously submitted/reviewed projects:
 - Site Plan Review – CNF Repair – Town of New Bremen Town Bd. – Approved w/ conditions
 - Area Variance – Michael Britton (Tractor Supply) – Town of Denmark ZBA – Approved

(9) **Unfinished Business:** None

(10) **New Business:** None

(11) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. King, seconded by Mr. Lehman, which carried unanimously. Ms. Buell adjourned the meeting at 3:45 PM.

Respectfully submitted,



Casandra Buell
Director of Planning