

MINUTES OF THE TOWN OF FORT EDWARD PLANNING BOARD PUBLIC HEARING & REGULAR MEETING HELD AT TOWN HALL ON WEDNESDAY, OCTOBER 27, 2021 COMMENCING AT 7:00 P.M.

Chairman Belden called the meeting to order at 7:00pm

Pledge of Allegiance

PRESENT: Chairman Mark Belden
Valerie Ingersoll
Donald Sanders, Jr.
Zachary Middleton
Max Fruchter
Joe McMurray
Dolores Cogan – Alt

OTHERS PRESENT: Mary Harvey, Les Stockwell, Attorney Brian Reichenbach, Town Engineer Chris Koenig, Matt Tripoli, Greg Samilo, Terry Middleton, Andrew Healy, Mitch Quine and James Wayne

APPROVAL OF MINUTES: MOTION by Zachary Middleton, Seconded by Donald Sanders, Jr. to approve the minutes of the meeting of September 8, 2021 **ALL AYES**

BUSINESS:

**C.S. Energy
Dolan Solar Project
Public Hearing 7:05pm**

Chairman Belden opened the public hearing at 7:05pm

The following notice was published in the Post Star on October 20, 2021:

PLEASE TAKE NOTICE, the Town of Fort Edward Planning Board will hold a public hearing on Wednesday, October 27, 2021 at Town Hall, 118 Broadway Fort Edward, NY 12828 at 7:05pm to hear comments regarding the Dolan Solar, LLC Site Plan application submitted by CS Energy. The Dolan Solar project is a 20-Megawatt (MW) AC solar electric generating facility located on lands between Cary Road and Patterson Road in the Town of Fort Edward. The project includes approximately 115 acres of solar panels. Tax Map #'s 187.-1-6.4, 187.-1-7, 187.-1-15.1, 187.-1-13.1, 187.-1-13, 187.-1-10, 187.-1-11.2, and 188.-2-1.

At the public hearing anyone wishing to comment on the project will be heard.

PUBLIC COMMENT:

Mary Harvey: Why are we here? We got a letter in the mail about the meeting but we are the only public here.

Matt Tripoli: We sent out letters to neighboring property owners for information purposes.

Mary Harvey & Les Stockwell left the meeting

Town Engineer Chris Koenig went through his memo regarding the project:

Re: Dolan Solar Project Site Plan Review Comments C.T. Male Project No. 14.4052-087

Dear Mark: C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. (C. T. Male) has completed a review of the project documents that we received from the Town of Fort Edward and the applicant, Dolan Solar LLC, which is a subsidiary of CS Energy, for the site plan review application associated with the 20-megawatt (MW) AC ground-mounted solar electric generating facility project known as the "Dolan Solar Project". The overall project encompasses approximately 350 acres on land on nine (9) tax parcels between Paterson Road and Cary Road and on property along Woodard Road.

The package of information that we reviewed was issued by the applicant over the course of three (3) submissions, and included the following documents:

Submission 1: July 7, 2021 "Sketch Plan"

- Signed Town of Ft. Edward Site Plan Review Application
- Project Narrative • Conceptual Site Plan Set, prepared by EDR, dated July 6, 2021
- Agricultural Data Statement (list of agricultural neighbors)
- Exhibit 1: Description of Project's impacts to Rare and Endangered Species and Significant Natural Communities
- Exhibit 2: Description of Project's impacts to Agriculture, Prime Soils, and Stormwater Runoff
- Deeds of the nine (9) subject parcels
- Memorandum of Option with the six (6) owners of the subject parcels (site control)
- Part 1 Full Environmental Assessment Form (EAF) with Addendum to Section A.

Submission 2: September 3, 2021

- Cover Letter
- Memorandum of SEQR EAF Part 2
- Wetland and Stream Delineation Report, prepared by EDR, dated July 2021

- Forest Removal and Visual Mitigation Plan, prepared by EDR, dated September 3, 2021
- Draft Visual Buffer and Planting Layout Details, prepared by EDR, dated August 24, 2021
- Operation and Maintenance Plan
- Decommissioning Plan

Submission 3: October 8, 2021

- Cover Letter
- Stamped Site Plan Set, prepared by EDR, dated October 8, 2021
- Preliminary AC One-Line Diagram, dated April 27, 2020. prepared by Scott Reynolds, P.E.
- Revised Agricultural Data Statement (Town form added)
- Correspondence with U.S. Fish and Wildlife Service (USFWS) and the New York State Department of Environmental Conservation (NYSDEC) regarding threatened and endangered species and rare plants and animals.
- Correspondence and consultation status with New York State Historic Preservation Office (SHPO) regarding historic and cultural resources.
- Revised Part 1 Full EAF
- Stormwater Pollution Prevention Plan (SWPPP), prepared by EDR, dated October 2021
- Decommissioning Estimate, prepared by Tetra Tech
- Equipment Data Sheets (inverter, solar panels, tracker)

It is also noted that the applicant applied for and was granted five (5) area variances related to the side yard and rear yard setbacks of the solar arrays. The variances were granted by the Town of Ft. Edward Zoning Board of Appeals (ZBA) on July 29, 2021. It was discussed that the area variances were only related to those landowners involved in the project and that the issuance of the area variances would serve to consolidate the overall footprint of the solar energy system.

Planning Comments

1. It is noted that since the initial submission in July, the Planning Board and the applicant have discussed pertinent issues in regular Planning Board meetings including project layout, project operations, site control, visual impact, impact on wildlife and plants, impact on wetlands and surface water, impact on agriculture, impact on neighboring properties, and other environmental and planning-related impacts. The applicant appears to have addressed the questions of the Board with their submissions over time and in discussions and presentations during regular Planning Board meetings.

2. The project site is located wholly within the R-AG zoning district. Ground-mounted racks and freestanding solar collectors mounted on a pole are permitted as a primary structure in the R-AG district. With the exception of the area variances issued by the Town of Ft. Edward ZBA related to side and rear yard setbacks, the project layout appears to meet the criteria established in §108-49.4 E (1-9) of the Town zoning code. C.T. MALE ASSOCIATES October 27, 2021 Dolan Solar, LLC Page - 3

3. The application at present appears to meet the submission requirements of §108-49.4 E (10) of the Town zoning code, and the applicable submission requirements of §81 of the Town code. It is recommended that the Planning Board accept the application as complete.

4. Overhead wire on 40-foot utility poles is proposed for most of the electric distribution system. The Board should consider the visual impact of this proposal as it was not detailed in previous submissions. The basic electrical layout appears to be undeveloped on portions of the site plans (C-103, C-104, C-106). Final plan submission should depict the complete basic layout.

5. The proposed fence is an 8-foot high woven wire deer fence with wooden poles driven into the ground. This may be perceived as in conflict with §108-45 of the zoning code that regulates the height of certain fences as they relate to buildings. The proposed fence is interpreted to be a component of the solar energy facility and regulated by the National Electrical Code (NEC), and not a fence in the traditional sense as expressed in §108-45.

6. The Planning Board should consider whether it is appropriate to request swing gates at the access road entrances onto public roads to help deter trespassing near the electric equipment, given the extensive array of access roads throughout the project. The applicant should also address safety signage as required by the NEC and other signage that is proposed.

SEQR

7. The project constitutes a Type 1 Action. The Town of Ft. Edward Planning Board is Lead Agency and has coordinated the environmental review with Involved Agencies. The applicant has submitted a revised Part 1 Full EAF in conjunction with the October 8, 2021 site plans, and the information provided appears to be adequate and accurately reflect the project. The Planning Board is free to conduct its environmental review of the Type 1 Action under SEQRA.

Agency Coordination and Permitting

8. The Town Planning Board has referred this project to Washington County Planning Agency in accordance with GML §239(m). The Washington County Planning Agency offered the following remarks in its review letter: "The Planning Agency found this project to be a matter of essentially local concern with the Comment that impacts on the area wetlands are fully considered. The Town Planning Board is therefore free to move forward and take their final action on this project as it sees fit."

9. The applicant has reported that they will need to obtain permits and approvals from the NYSDEC and the U.S. Army Corps of Engineers related to wetlands, stormwater, cultural and historic resources, and threatened and endangered species/rare animals. It is anticipated that there will be a high level of

regulatory review pertaining to these project impacts outside of the purview of the Town Planning Board.

Decommissioning and O&M

10. The applicant has submitted a decommissioning plan and a decommissioning estimate and has established a preliminary net cost to decommission the system in 2021 as \$673,414.31. The estimate assumes that the system will have a salvage value of \$327,600. Therefore, the gross cost to decommission the system is estimated at \$1,001,014.31 present value. NYSERDA estimates in guidance documents that decommissioning costs approximately \$30,100 per MW AC present value. The applicant's estimate assumes approximately \$50,000 per MW AC present value. Given that this is a long-term agreement with the town of Ft. Edward, C.T. Male is requesting further review of the decommissioning plan and estimate in consultation with the Town Supervisor/Town Board and the Town Attorney, as well as the applicant. Any Planning Board approvals may be conditioned on the acceptance of the Decommissioning Plan and Estimate by the Town of Ft. Edward. The zoning code provides that the issuance of a building permit is contingent upon the applicant establishing acceptable financial surety. Similarly, given the scale of the project, C.T. Male is requesting further review of the O&M plan in consultation with the Town Supervisor/Town Board and the Town Attorney, as well as the applicant. Conditions of approval or permit of the decommissioning plan should also apply to the O&M plan.

Stormwater Engineering Comments

11. Section 8 Post-Construction Stormwater Management is a generic overview of the methodology proposed and does not include site specific information. It States that "Detailed calculation and design information related to stormwater quality will be provided in the Stormwater Management Engineering Memo in Appendix H and the Contract Drawings during final design." This section also states that "Concept level stormwater quality management practices including vegetated filter strips, and bioretention area have been included on the site drawings." It is assumed that the Memo will also include detailed information on the Stormwater Quantity measures proposed at the site.

12. Section 3.0 of the SWPPP indicates that the site is within a MS4. The Town of Fort Edward is not an MS4. The SWPPP should be revised.

13. Water Quantity Mitigation Measures: The SWPPP in Section 5.1 indicates that there will be approximately 10,000 LF of access roads and 28,000 sq. ft. electric substation. This would result in approximately 3.4± acres of new impervious surfaces. The concept stormwater shown on the plans do not depict water quantity measures. The design engineer shall document that the proposed design will meet the stormwater quantity requirements of the Stormwater Management Design Manual.

14. Sheetflow to Riparian Buffers or Filter Strips: Section 5.3.2 Table 5.8 portion of the NYS Stormwater Management Design Manual states "Maximum Slope, First Ten Feet of Filter be less than 2%." A detail for the proposed filter strip was not shown on the plans. The details for the gravel roads on sheet C-601 denoted a filter strip but do not depict meeting this requirement.

15. Sheetflow to Riparian Buffers or Filter Strips: Section 5.3.2 Required Elements portion of the NYS Stormwater Management Design Manual states “Runoff shall enter the buffer as overland sheet flow; a flow spreader can be supplied to ensure this, if average contributing slope criteria cannot be met (Note: a level spreader shall be used between buffer slopes ranging between 3% and 15%; for buffer slopes beyond 15% this practice cannot be applied)”. The stormwater concept shown has several areas of road that are over the 3%. The design engineer shall document that the proposed design will meet the requirements that runoff enter the practice as sheetflow.

16. Sheetflow to Riparian Buffers or Filter Strips: Section 5.3.2 Sizing and Design Criteria portion of the NYS Stormwater Management Design Manual states “In HSG C and D buffer length should be increased by 15%-20% respectively.” The draft NOI included in the SWPPP shows that 99% of the soils on site are HSG D soils. The plans show the minimum 50’ buffer width length for slopes 0% to 8%. The design engineer shall document that the proposed will meet the requirements of the increase buffer length.

17. Bioretention Area: Section 6.4.2 Conveyance criteria of the NYS Stormwater Management Design Manual states “Require a 2’ separation between the filter bottom and groundwater.” The plans or SWPPP do not contain any soil test pits for the proposed Bioretention Area. The design engineer shall document that the stormwater practice meets the “2’ separation” requirement in Section 6.4.2.

18. Vegetated Filter Strip: The plan shows several areas where the filter strips are below the proposed solar panels. The NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance memorandum dated April 6, 2018 which references the Maryland Department of the Environment Stormwater Design Guidance – Solar Panels. The Maryland Guidance would allow the solar panels to be treated as vegetated open space if certain conditions are proposed. The utilization of the area under the panels as a treatment practice for gravel road /impervious surfaces would not be allowed as that area is already in use as a treatment, non-rooftop disconnection, for the solar panels.

19. Slope Under Panels: The NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance memorandum dated April 6, 2018 which references the Maryland Department of the Environment Stormwater Design Guidance – Solar Panels. The Maryland Guidance states “Disconnections should be located on gradual slopes ($\leq 5\%$) to maintain sheetflow. Level spreaders, terraces, or berms may be used to maintain sheetflow conditions if the average slope is steeper than 5%. However, installations on slopes greater than 10% will require an engineered plan that ensures adequate treatment and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.” As there are no measures such as level spreaders or berms the design engineer shall document the average slope in the area of the solar panels is not steeper than 5%.

20. Soil Erosion and Sediment Control: The current plans have minimal soil erosion control measure shown. As the plans progress soil erosion and sediment control measure should be shown on the plans.

21. C.T. Male recommends that any Planning Board approvals be contingent upon acceptance of the SWPPP, final site plans, and stormwater concept by C.T. Male as the Town designated engineer.

MOTION by Zachary Middleton, Seconded by Joseph McMurray to deem the application for the Dolan Solar project complete **ALL AYES**

Dolores Cogan: What is the distance between the poles?

Matt Tripoli: 150' to maintain 18' of clearance.

Chris Koenig: The cost estimates should be summarized.

Zachary Middleton: The cost estimates seem low in the Decommissioning Plan. The removal of the panels should be your biggest cost.

Chairman Belden: Re-submit the costs for review.

Chris Koenig: As far as the stormwater comments I was going to have the applicant send them to EDR for review.

MOTION by Max Fruchter, Seconded by Joseph McMurray to close the public hearing at 7:52pm **ALL AYES**

- **SEQR – Town Engineer Chris Koenig went through Part II of the updated EAF and compared it to the EAF the Board went through September 8, 2021 and is preparing the negative declaration (Part III) which will become part of the minutes once complete.**

Matt Tripoli: We will work on the Decommissioning Plan for the Board's review at the next meeting.

Max Fruchter: Will you be dealing with any hazardous materials in the decommissioning?

Matt Tripoli: No

Max Fruchter: Will you be issuing each landowner a certificate of insurance and will it include Labor Law 240, working from heights and by heights they mean anything over 1'?

Matt Tripoli: Yes, we will be issuing certificates of insurance but I am not sure about Labor Law 240. I will have to look into that.

Next meeting for the project will be November 10, 2021 at 7:00pm

ADJOURNMENT:

MOTION by Max Fruchter, Seconded by Valerie Ingersoll to adjourn the meeting at 8:45pm
ALL AYES

Dated: October 28, 2021

Aimee Mahoney, Clerk