

MINUTES
LEWIS COUNTY PLANNING BOARD
August 20, 2020

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:31 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, Gary Rosiczkowski, Michael Kaido, John Lehman, Jerry King, and Warren Shaw. Staff Present: Casandra Buell, Director of Planning. Public Present: Nick Altmire, LinkingLewisCounty.com
- (3) **Reading and Approval of Minutes:** The draft July 16, 2020 meeting minutes were received. Mr. Lehman motioned to approve the minutes; Mr. Rosiczkowski seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:** None
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

*Mr. Eric Virkler entered the meeting at 2:33 PM

Ms. Buell read the following review to the Board:

TOWN OF DENMARK PLANNING BOARD

Special Use Permit for the use of an existing garage as an aromatherapy business located at 9758 East Road (County Route 19) in the Town of Denmark.

Tax Map Parcel: #126.00-02-03.000

Heather Hogan – Applicant

The applicant provided the following Project Documentation: 1) Project Narrative; 2) SEQR Short Environmental Assessment Form; 3) Agricultural Data Statement; and 4) Tax Map.

It should be noted that the original Agricultural Data Statement submitted listed (0) farm operations within 250 feet of the proposed project; however, according to GIS aerial images, it appears that there could be several parcels listed. As part of this review, the Town of Denmark Clerk was notified of the possible oversight. While the applicant did not list any farm operations within 250 feet of the proposed project, on July 25, 2020, the Town of Denmark Planning Board sent out notification letters to the agricultural properties in question.

▪ ***Compatibility with Adjacent Uses:***

According to the submitted referral, the proposed project is located on 2 acres of land owned by the applicant. This area contains mixed uses including but not limited to Residential and Rural (non-agricultural). The property is located within NYS Ag District 6 and is in the AR 2 (Agriculture Residential) zone. The proposed action complies with the intent of Article IV

of the Town of Denmark Zoning Law Land Use Permit Requirements under the defined use as Retail, Small Product.

Based on the submitted site plan drawing, it appears that the project is compliant with the required maximum building height, required County road setbacks, side yard and rear yard setbacks detailed in Article IV, Section 410 (Nonresidential Use) and Article IX, Section 930.

- *Traffic Generation and Effect:*

The proposed action will use the existing paved driveway for business egress/ingress. According to the submitted SEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels.

- *Protection of Community Character:*

In the submitted SEAF, the applicant notes that the project site is not a critical environmental area, archeological site, remediation site, on the national or state register of historic places or state eligible sites or designated river corridor. As part of this review, an Environmental Assessment Form (EAF) report was produced and verified these findings. The proposed action appears to be consistent with the predominant character of the existing built or natural landscape.

According to the submitted SEAF, the Town of Denmark Planning Board has determined that the proposed project should not be any adverse impact to the environment (Negative Declaration dated 7-7-2020).

- *Signage:*

The proposed action includes a 4' wide x 3' high wooden sign located between the road and the building. The proposed sign setback was not provided in the submission; however, to comply with Article IX § 985(I), the sign's distance from County Route 19 should be at least 15 feet. Prior to approving this Special Use Permit, the Town of Denmark Planning Board should verify that the proposed sign's setback will meet or exceed the 15' minimum requirement.

- *Drainage:*

According to the submitted SEAF, the proposed action will disturb 0 acres and will not create stormwater runoff.

- *Parking:*

According to the site plan drawing submitted by the applicant, they have proposed two (2) parking lot spaces located approximately 68' from County Road 19. From the site plan renderings provided, it appears that each parking space will exceed the 9'x20' requirement. The proposed action is compliant with Article VIII § 870.

- *Community Facilities:*

The proposed action will not use or create a new demand for water, sewer, energy nor will it generate liquid waste.

- *Lighting:*

According to submitted site plan rendering and narrative, the existing outdoor security lighting will be used.

- *Landscaping and Screening:*

The proposed action does not include additional landscaping; however, the existing vegetation acts as a natural buffer to the new use.

Recommendation: Approve with the following conditions

1. Prior to approving this Special Use Permit, the Town of Denmark Planning Board should verify that the proposed sign's setback will meet or exceed the 15' minimum requirement.
2. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Mr. Rosiczkowski requested verification on where the 15' minimum sign set back requirement would be measured from. Ms. Buell verified that the sign needs to be set back at least 15' from the road line. With no further questions, a motion was made by Mr. Shaw to approve with conditions. Mr. Kaido seconded the motion, which carried unanimously.

Ms. Buell then read the following review:

TOWN OF DENMARK PLANNING BOARD

Special Use Permit for the use of an existing barn as a special events venue located at 3853 Deer River Road (County Route 55) in the Town of Denmark.

Tax Map Parcel: #097.00-01-20.141

James F. Hancock – Applicant

The applicant provided the following Project Documentation: 1) Site Plan Sketch; 2) SEQR Short Environmental Assessment Form; 3) Agricultural Data Statement; and 4) Tax Map.

- *Compatibility with Adjacent Uses:*

The proposed action is located on 203 acres of land owned by the applicant. This area contains mixed uses including but not limited to Agricultural and Residential. The property is located within NYS Ag District 6 and is in the AR 2 (Agriculture Residential) zone.

Based on the submitted site plan drawing, it appears that the project is compliant with the required maximum building height, required County road setbacks, side yard and rear yard setbacks detailed in Article IV, Section 410 (Nonresidential Use).

It should be noted that there is a residence directly across the street from the proposed action. It is highly suggested that the property owner located at 3858 Deer River Road is notified of the proposed action prior to the public hearing and that their comments/concerns are appropriately addressed before a final decision is made.

- *Traffic Generation and Effect:*

The proposed action will use the existing gravel driveway for business egress/ingress. According to the submitted SEAF, the applicant has determined that the proposed action will result in a substantial increase in traffic above present levels on a seasonal basis. Since there is an anticipated increase in traffic flow for this County Road, to comply with Article VII § 705, the applicant should consult with the Lewis County Highway Superintendent to discuss access standards for the proposed action prior to beginning operations.

- *Protection of Community Character:*

In the submitted SEAF, the applicant notes that the project site is not a critical environmental area, archeological site, remediation site, on the national or state register of historic places or state eligible sites or designated river corridor. As part of this review, an Environmental Assessment Form (EAF) report was produced and verified these findings. The proposed action appears to be consistent with the predominant character of the existing built or natural landscape.

According to the submitted SEAF, the Town of Denmark Planning Board has determined that the proposed project should not be any adverse impact to the environment (Negative Declaration dated 8-4-2020).

- *Signage:*

The proposed action referral did not include plans to install a sign. If the applicant intends to erect a sign for the proposed action, compliance with Article IX § 970 – 985 is necessary. Sign plans should be approved by the Town of Denmark Planning Board prior to installation.

- *Drainage:*

According to the submitted SEAF, the proposed action will disturb 0.2 acres and will not create stormwater runoff. While the applicant notes that the project site does not adjoin or contain wetlands or other waterbodies regulated by a federal, state or local agency, there are documented National and State Wetlands located on the northeastern portion of the property. The proposed reuse of the existing barn and parking spaces will not encroach onto these wetlands.

- *Parking:*

According to the site plan drawing submitted by the applicant, they have proposed three (3) parking lot areas; two (2) 60'x200' parking lots located approximately 350' from County Route 55, 290 feet from the side lot to accommodate a total of eighty (80) vehicles and one (1) handicapped parking area next to the barn that will accommodate two (2) vehicles. From the site plan renderings provided, it appears that each parking space will meet the 9'x20' requirement. The proposed action is compliant with Article VIII § 865.

- *Community Facilities:*

According to the submitted SEQR, the proposed action will not use or create a new demand for public/private water, wastewater, energy nor will it generate liquid waste. The application notes that existing methods of sewage disposal and public water will be utilized along with portable toilets.

- *Lighting:*

The referral noted that existing outdoor lighting will be utilized; however, the Town of Denmark Planning Board should review and agree to the existing outdoor lighting prior to making a final decision for this action. It is highly recommended that lighting is installed in the parking areas and that there is little to no disturbance to the adjacent residential properties.

▪ *Landscaping and Screening:*

The referral noted that existing landscaping will be utilized. Due to the nature of the proposed action, it is highly suggested that additional screening is added to the facility to minimize conflicts with adjacent residential land uses. A landscaping plan should be submitted to the Zoning Officer and approved by the Town of Denmark Planning Board prior to opening operations.

Recommendation: Approve with the following conditions

1. Since there is an anticipated increase in traffic flow for this County Road, to comply with Article VII § 705, the applicant should consult with the Lewis County Highway Superintendent to discuss access standards for the proposed action prior to beginning operations.
2. It is highly suggested that the property owner located at 3858 Deer River Road is notified of the proposed action prior to the public hearing and that their comments/concerns are appropriately addressed before a final decision is made.
3. The proposed action referral did not include plans to install a sign. If the applicant intends to erect a sign for the proposed action, compliance with Article IX § 970 – 985 is necessary. Sign plans should be approved by the Town of Denmark Planning Board prior to installation.
4. The referral noted that existing outdoor lighting will be utilized; however, the Town of Denmark Planning Board should review and agree to the existing outdoor lighting prior to making a final decision for this action. It is highly recommended that lighting is installed in the parking areas and that there is little to no disturbance to the adjacent residential properties.
5. Due to the nature of the proposed action, it is highly suggested that additional screening is added to the facility to minimize conflicts with adjacent residential land uses. A landscaping plan should be submitted to the Zoning Officer and approved by the Town of Denmark Planning Board prior to opening operations.
6. Compliance with all Local, State and Federal regulatory requirements for this type of facility and the products stored.

Mr. Rosiczkowski asked what elements need to be discussed with the County Highway Department. Mr. Shaw noted that it is important to assess the driveway entrances for commercial uses on County Roads. With no further questions, Mr. Lehman made a motion to approve the action with said conditions. Mr. Rosiczkowski seconded the motion, which carried unanimously.

Ms. Buell went on to read the last review:

TOWN/VILLAGE OF LOWVILLE PLANNING BOARD

Special Use Permit and Site Plan Review for the proposed installation of a ground mounted solar array to encompass approximately 60 acres located at 5785 Waters Road in the Town of Lowville.

Tax Map Parcel #213.00-01-46.000

Solitude Solar, LLC/dba US Light Energy – Applicant

The applicant provided the following Project Documentation: 1) Tax Map; 2) Agricultural Data Statement; 3) SEQR Short Environmental Assessment Form; 4) EAF Mapper Report; 5) Zoning Maps; and 6) Site Plan.

- *Compatibility With Adjacent Uses:*

The zoning for this area is identified as AG (Agriculture). Prior to a zoning map change in May 2020, the property was identified as High-Density Residential B, High-Density Residential C and Open Space and Conservation. According to the submitted SEAF, the applicant has identified that the proposed action is nearby or adjoining rural, agriculture, residential, and open space and conservation land uses. The proposed action is within 400 feet of several farm operations and residential properties. The proposed use is not consistent with the character of the Waters Road corridor nor is it compliant with the Town/Village of Lowville Comprehensive Plan; however, it is compliant with Article III Town of Lowville Solar Energy Law §100-38(A).

Both the “Waters Road A” and “Waters Road B” arrays meet the applicable requirements listed in Article IV § 250-17 of the Town of Lowville Zoning Law. The total proposed project area is estimated to encompass 60 acres of the 251-acre lot. Since this project is anticipated to occupy roughly 24% of the lot, it appears that this action is compliant with Article III § 100-38(B).

- *Traffic Generation and Effect:*

The roadway is identified as Waters Road. The proposed action will include 3 separate egress/ingress locations from Waters Road. The proposed “Waters Road A” solar array includes a 12’ wide rock construction entrance and accessway. There is also a proposed 110’ x 200’ temporary staging area between the Waters Road and the gated array entrance. “Waters Road B” solar array includes two (2) proposed 12’ wide rock construction entrances.

As noted on page 2 of the submitted SEAF, the proposed action will not result in a substantial increase in traffic above present levels, is not accessible from public transportation services, and does not have pedestrian accommodations and/or bicycle routes on or near the site of the proposed action. It should be noted that the proposed action will result in an increase in traffic during the construction stages of the project. According to the General Construction Notes on Sheet 6, the contractor is responsible for repairing the damage done to any existing item during construction such as pavement.

- *Protection of Community Character:*

An EAF Mapper Summary Report was submitted by the applicant for the proposed action site and, according to the results, the site is not in a critical environmental area, national or state register of historical places or state eligible sites, archeological site, or remediation site; however, it is home to the Tomah Mayfly, a threatened/endangered animal. The proposed action site is not within the 100-year flood plain; however, it does contain regulated wetlands. According to the submitted SEAF, the proposed solar arrays may encroach on portions of identified wetlands; however, any actual wetland impacts will be minimized and avoided using driven piles. The applicant will address any requirements with the U.S. Army Corps of Engineers.

Per the Town of Lowville Zoning Enforcement Officer, Kathy Manning, the Town of Lowville is handling the decommissioning plan details. The abandonment or decommissioning plan should comply with Chapter 100, Article III § 100-38(O).

- *Signage:*

The proposed action includes two (2) 24-hour emergency contact information signs at the “Waters Road A” array; one (1) at the gate entrance and one (1) at the southern gate. The applicant has proposed one (1) 24-hour emergency contact information sign to be located at the western “Waters Road B” array entry gate. The proposed action is compliant with Article III § 100-38(J).

- *Drainage:*

According to the submitted SEAF, the proposed action will not create storm water discharge and does not include construction or other activities that would result in the impoundment of water or other liquids. The submitted SEAF notes that there will be 60 total acres physically disturbed. This falls above the 1 acre threshold which requires the applicant to obtain a SPDES permit. Before commencing construction activity, the applicant must work with NYSDEC to obtain the proper permits.

It should be noted that the submitted site plans for “Waters Road A” include several existing drainage features, including several 30” culverts and agricultural drainage ditches. The applicant has proposed a 25’ long x 30” wide culvert under the accessway between equipment pad #1 and equipment pad #2. Silt fencing is proposed around the southern, eastern and northern boundaries of the “Waters Road A” array and along the southern boundary of the “Waters Road B” array.

- *Parking:*

The proposed action has two (2) temporary staging areas and several 12’ project access roads. While the site will not need to be accessed on a regular basis while in operation, to comply with Article III § 100-38 (M), site access should be reviewed by local fire and emergency service departments prior to beginning operations to ensure that it is acceptable.

- *Community Facilities:*

According to the submitted SEAF, the proposed project would not connect to existing public water supply or wastewater utilities. The applicant also notes that the proposed action meets or exceeds the state energy code requirements.

It should be noted that there is an existing sewer line to the south of the “Waters Road B” array; which includes a 50’ easement. The applicant plans on installing security fencing on the outer edge of the 50’ easement. Additionally, the “Waters Road B” arrays will be installed 25’ from the existing overhead electric lines that run through the proposed action. Additionally, there is a 50’ easement through the center of the “Waters Road A” array for the existing underground waterlines. According to the submitted site plans, the applicant will install arrays 7.5’ from the easement line.

While the General Construction Notes on Sheet 6 note that “All new utilities/services are to be installed underground, the submitted site plans for the “Waters Road A” array depict plans for overhead lines to connect the array to the existing National Grid three phase lines. The “Waters Road B” array shows it will take advantage of the existing overhead lines that connect to the National Grid three phase lines. According to Article III § 100-38(K), “Where at all possible, utility connections and transmission lines shall be underground depending on soil conditions, topography, and requirements of the utility company permitting.” To comply with Article III § 100-38(K), the applicant should prove that they

cannot bury the utility lines due to soil conditions, topography, and requirements of the utility company prior to approval.

According to Article III § 100-38(L), the operator shall provide a project summary, electrical schematic, and site plan to the local Fire Chief and upon request, the operator will cooperate with local emergency services to develop an emergency response plan. Additionally, all means of shutting down the system should be clearly marked. These actions should be completed prior to beginning operations.

- *Lighting:*

It does not appear that the action will include outdoor lighting; however, if outdoor lighting is installed, compliance with Article XI § 250-83 is required.

- *Landscaping and Screening:*

Both arrays will be completely enclosed by a 7' tall security fence with several security gates. The applicant has proposed to utilize a combination of existing tree lines and new vegetative screening along the western boundary of the "Waters Road A" array; however the northern, eastern and southern array boundaries do not appear to include vegetative screening; natural or proposed. Existing tree lines will be utilized on portions of the western and southern boundaries of the "Waters Road B" array; however, a majority of the array will not include vegetative screening. According to § 250-85 and 250-86, buffer area landscaping and other general landscaping plans are required. In order to comply with Article XI § 250-85 and § 250-86, the applicant should submit appropriate buffer and landscaping plans. These plans should clearly illustrate how the visual impacts of the arrays will be minimized in what was once an Open Space/Conservation zone.

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. This falls above the 1-acre threshold which requires the applicant to obtain a SPDES permit. Before commencing construction activity, the applicant must work with NYSDEC to obtain the proper permits.
3. To comply with Article III § 100-38(K), the applicant should prove that they cannot bury the utility lines for the "Waters Road A" array due to soil conditions, topography, and requirements of the utility company prior to approval.
4. According to Article III § 100-38(L), the operator shall provide a project summary, electrical schematic, and site plan to the local Fire Chief and upon request, the operator will cooperate with local emergency services to develop an emergency response plan. Additionally, all means of shutting down the system should be clearly marked. These actions should be completed prior to the beginning of operations.
5. While the site will not need to be accessed on a regular basis while in operation, to comply with Article III § 100-38 (M), site access should be reviewed by local fire and emergency service departments prior to beginning operations to ensure that it is acceptable.
6. It does not appear that the action will include outdoor lighting; however, if outdoor lighting is installed, compliance with Article XI § 250-83 is required.
7. According to § 250-85 and 250-86, buffer area landscaping and other general landscaping plans are required. In order to comply with Article XI § 250-85 and § 250-86, the applicant should submit appropriate buffer and landscaping plans. These plans should clearly illustrate how the visual impacts of the arrays will be minimized in what was once an Open Space/Conservation zone.

8. The abandonment or decommissioning plan should comply with Chapter 100, Article III § 100-38(O).
9. Site plans should be sent by the applicant to Fort Drum to bypass any potential interference with the military base.

Mr. Virkler had to depart for another meeting; however, he did want to provide his comments prior to leaving the meeting. He noted that he is concerned about the location of the signs due to its negative impact on potential residential development and the viewshed. Additionally, he disagrees with the Town of Lowville zoning requirements that all electrical lines should be buried. Mr. Virkler left the meeting at 3:06 PM. The Board further discussed their concern over the Town of Lowville's May decision to revise their zoning map to accommodate this solar development. All agreed that they would like it noted on the record of said concern. The following was added to the official recommendation:

****NOTE: The proposed use is not consistent with the character of the Waters Road corridor nor is it compliant with the Town/Village of Lowville Comprehensive Plan. While the proposed action is allowed in the defined zone, the impact on the potential residential development and scenic viewshed will be significantly obstructed.***

Additionally, Mr. Rosiczkowski noted his concern regarding the decommissioning details. Ms. Buell reminded the Board that the Town of Lowville Town Board will be handling the decommissioning details; however, she still included the compliance requirements in the action recommendations. With no further comments, Mr. Lehman made a motion to approve with said conditions and note. Mr. Petersen seconded this motion, which carried unanimously.

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

Ms. Buell read the following municipality responses regarding previously submitted/reviewed projects:

- Site Plan Review – Thomas Schneider – Town of New Bremen– Approved
- Site Plan Review – Jason Roggie – Town of New Bremen Town Board – Approved w/conditions

- (8) **Unfinished Business:** Mr. Rosiczkowski asked Ms. Buell for an update on the Dollar General that was approved by the Village of Copenhagen last year. Ms. Buell notified the Board that she spoke with Village of Copenhagen officials last week regarding the Dollar General project. The project is still planned to go forward and should begin construction this fall.

- (9) **New Business:** None

- (10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Rosiczkowski, seconded by Mr. Lehman, which carried unanimously. Mr. Petersen adjourned the meeting at 3:25 PM.

Respectfully submitted,



Casandra Buell
Director of Planning