

February 13, 2023

PINE PLAINS PLANNING BOARD MINUTES
Wednesday February 8th, 2023
7:30 PM
In Person and Zoom

IN PERSON ATTENDANCE: Michael Stabile, Chairman
Al Blackburn
Ethan DiMaria
Dick Hermans
Helene Marsh, Alternate
Kate Osofsky
Steve Patterson

ZOOM ATTENDANCE: Vikki Soracco (*did not participate in discussion*)
(Members attending via Zoom do not count towards the quorum or voting.)

ABSENT: Scott Cavey, Alternate

ALSO PRESENT: Warren Replansky, Town Attorney, in person
Drew Weaver, ZEO, via Zoom
George Schmitt, Town Engineer, in person
Sarah Jones, Town Liaison, in person
Andrew Gordon, Carson-Power, in person
Eric Redding, Bergmann Associates, via Zoom
Raquel Parks, Carson-Power's Attorney, via Zoom
Kelly Saladis, CPNY, via Zoom
Cory Clanahan, Applicant, in person
Nicole Clanahan, Applicant, in person
Two Members of the Public, in person

Chairman Stabile opened the meeting at 7:30 pm with a quorum Present.

Rural Center Refillery: Stabile said the application left off with the applicants getting some sort of word from Ag & Markets regarding approvals. Ag & Markets responded they would make a determination once the application is approved by the planning board. This condition has been placed in the resolution. The

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applicant said they have submitted their application to Ag & Markets who suspects they will inspect it in 4-6 weeks.

Stabile then read the resolution (see attached).

Stabile asked for a motion to accept the resolution, motion by Blackburn, second by Patterson, all in favor, motion carried.

Cannabis Law: Stabile asked Replansky to explain the cannabis law. Replansky said it is close to being passed by the town board. There was a public hearing last month and only one person spoke. Replansky said they will be adding some additions to the law after speaking with Dutchess County Planning. Replansky said the law is ready to go, subject to the planning board's input.

Stabile said DiMaria noted that the light industrial zone was not included in the approved zoning districts for it. Replansky said he would bring it to the attention of the town board.

Osofsky asked what constitutes a park, since dispensaries cannot be 500 ft from one in the law. Replansky asked Weaver if there was a definition of a park in the zoning law. Weaver did not think there was. Replansky said a park is usually a municipal area set aside for the use by the general public for recreation.

Osofsky asked about preventing odor detected by a normal sense of smell since cannabis can have a strong odor. Osofsky feels it should say "within reason". Replansky said a retail establishment would be ventilated.

Marsh said in the language in section two of the law is different as compared to the resolution. It was determined that the law had an extra "not" and would be corrected. Marsh then asked about the hours of operation by 8am-8pm Monday - Saturday and 12pm-5pm on Sunday. Marsh feels they are longer hours and not consistent with the other businesses in town. Replansky said he did not think there are standard hours in town. Replansky said 8-8 is standard for dispensaries. Replansky said the planning board does not have the power to regulate hours.

Osofsky asked about the egress and the public way. Osofsky asked if there had to be a separate in and out. Replansky replied yes. Stabile clarified that it is the door of the facility, not the driveway. Weaver agreed that it is the building entrance and exit.

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Stabile asked Replansky what he thought about the county having the planning board having something in place to discourage loitering. Replansky said it was discussed and it was decided to leave in the law. Replansky said this can be done by not having benches outside, etc.

Replansky told Stabile to put all the points in a memo so that the town board will have it when they vote on the law.

Stabile asked for a motion to draft a memo based upon the comments made there tonight, motion by Patterson, second by Hermans, all in favor, motion carried.

Carson Power: Gordon went over his tree removal plan. He said some chips will be used on site for erosion. The rest will be disposed of off-site. Gordon said the chipping could take up to two weeks.

Gordon went over the net carbon benefit. Marsh asked what the total acres of trees removed would sequester how many tons of carbon. Gordon replied that the 13,000 tons of carbon is equivalent to 88.4 acres of trees preserved in year one.

Gordon said the shading impacts are mostly to the south and the west of the project. Marsh asked about the selective clearing. Gordon said he tried to include these. Some trees may need to be cleared or trimmed. Stabile asked if nothing would be cleared outside the shaded green area shown on the map that Gordon had. Gordon replied correct and that he included a 20-ft buffer between the property boundary and the extent of clearing. The total clearing is 25.8 acres within the fence and 5.8 acres of trees outside the fence.

Stabile requested to see the information on a topo map.

Hermans asked to see what the gradient of the ravine would be after its land is graded.

Blackburn asked how close the panels would be to the line at the southernmost point. Gordon replied that he did not know but would take a look. Blackburn said he wasn't sure if there would be an issue with setbacks and zoning. Gordon said they have been careful to be compliant with zoning and the solar law.

Gordon said they are removing 25.8 acres of trees but more than that will be preserved. Gordon said 21.8 acres of agricultural

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fields will also be removed. Gordon said 33 acres will be preserved and conserved. A bit was taken off since a vegetation retention pond was needed, so Gordon actually counted it as 32.5 acres.

Marsh asked about the FEAF and the run-off from the panels being directed towards the wetlands. Gordon said there are no wetlands on the project and it may have been referring to the retention pond. Stabile said there are wetlands on the Army Corp of Engineers' designated chart. Gordon said they were mapped but the delineator did not find any wetlands on site. Redding agreed that no wetlands are on site, but there are wetlands surrounding the site. Marsh asked if permission was needed to direct the water to wetlands off-site. Redding said no, the requirement of the DEC is that they cannot increase run-off from their site. Marsh asked what is the physical mechanism that gets the run-off from the panels, culvert pipes? Redding said no, they are maintaining sheet flow, so where it flows today is where it will flow at the end of construction. Hermans asked if the chips would be used to slow the water down as well. Schmitt replied that was only during construction.

Gordon then introduced Kelly Saladis of CPNY who is the biologist hired by Carson Power. CP&Y is a consulting firm hired to do due diligence for the solar project. Saladis said there are mapped wetlands shown in the southwest corner. Saladis said their biologists were in the field and reviewed that area and it was comprised mainly of upland plants including golden rod, common milk weed, and worm wood. Saladis said when they do a wetlands delineation there needs to be three factors present to constitute a wetland. One being hydrophytic vegetation, hydrology, and hydric soils. All of the vegetation species observed in that area are upland species and there are no streams or any primary or secondary hydrology indicators.

Osofsky asked if the maps are ever updated. Saladis said there are periodic updates. Saladis said the NWI maps are based on aerial interpretation. Stabile asked if the field work was done in November. Gordon replied correct, of 2021. Stabile asked if the plant species that are there precludes it from being a wetland say in the spring. Saladis replied correct. Schmitt said you need wetland plants, wetland soil, and water, if you do not have any of those three things, you do not have a wetland.

Hermans asked Schmitt about an area, which is a plowed field, on the site visit that was wet. Schmitt said this is considered a

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disturbed site and the three indicators are not needed anymore; one indicator would suffice.

Marsh asked how it works, regardless of the biologists' findings, with an NWI listed wetland. Schmitt said those are not jurisdiction maps, they are maps generated as a tool for planning boards, etc. Marsh asked if there is a designated NWI wetland on a map, how do you progress, apart from the biologic survey, what is the requirement of the US Army Corp of Engineers. Schmitt said the applicant hires someone to do the work and at the end of the day it is the planning board's decision. Schmitt said he has experience flagging wetlands and will walk the site.

Marsh asked Saladis if her biologist made notes regarding the types of soils they found. Saladis said they did not since there was not hydrology or wetland vegetation. Marsh asked what area of the quote, unquote, wetlands did they survey. Saladis said they walked the entire study area. Marsh asked if it was just based on the plants. Saladis said it was based on the plants and the hydrology indicators. Stabile asked if the indicators would be there during a wet season. Saladis said there would be evidence of those indicators even if it was a drier season.

Schmitt said the NWI maps were not created by the government going out and mapping everyone's properties. They are done by remote sensing techniques, so it is open to interpretation.

Marsh asked if the upland plants were found in the disturbed area of the site. Saladis replied yes. Marsh asked what was found in the forested area. Saladis said they are predominately maple and elm trees. Marsh asked about the other vegetation in the wetland area. Saladis said a mix of maple, red oak, and elm trees. Marsh asked if those trees could be found in a forested wetland. Saladis said red oaks are usually found with uplands but could potentially be mixed in with other wetland species.

Saladis said there are several things that you have to look at with your wetland vegetation pursuant to the Corp of Engineers regional supplement. There has to be 50% or greater of species that meet certain wetland indicator status, which was not present on the project site.

Gordon then introduced Charles Nutter of Nexamp, who will be the owner/operator of the project and in charge of subscriber management. Nutter said they have 45 projects in NY and have

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been active since 2016. They are a subsidiary of Mitsubishi and will help to fund the development process as well as procure the equipment. They will serve as the general contractor of the project and subcontract other work out as well. Stabile asked if they are a publicly traded company and Nutter replied that they are privately owned. Gordon asked how many employees they have. Nutter replied they have about 450 employees. Stabile asked Nutter if there are any other projects in Dutchess County of the same size. Nutter said this project was typical of the size that they build. He wasn't sure about this size in Dutchess County but will find out. DiMaria asked for a list of the projects Nexamp has worked on in Dutchess and Columbia counties.

Replansky asked about the environmental monitor for the site listed in some of the documentation. Redding said the environmental monitoring has to do with the agricultural district that the site is located in. One of the requirements of NYS Ag & Markets is to have an environmental monitor on site during construction. Replansky asked who would do it and Gordon replied a third party. Replansky asked if there is any environmental monitoring after construction. Redding replied that there is a once a year follow-up for three years.

Stabile asked about the toxicity of the panels. Gordon said there are no hazardous materials used. Stabile asked Nutter where the panels will be coming from. Nutter replied that most solar panels come from Asian countries, but Nexamp does have a thoroughly vetted code of conduct for all vendors and will send this to the board.

Osofsky asked how the subscriber aspect worked. Gordon said it is complex, but you look at the project and see how much power it is going to create annually - a subscriber would submit their utility number and Nexamp would see their annual energy consumption. They would continue to accept subscribers until the project is fully allocated. Gordon said it is limited. Gordon said they will have a 90-day exclusivity period for Pine Plains residents.

Marsh asked Nutter the price that Nexamp is selling renewable energy - is it at or above the current price of nonrenewable energy. Nutter said a subscriber would still get their normal Central Hudson bill but they would see a line item on the bill that would offset what you would otherwise owe to Central Hudson. The following month the subscriber would pay Nexamp at a discounted price. New York's discounted price is 10%. Marsh

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asked Nutter if Nexamp can guarantee that a customer signing up will pay less than what they are paying to Central Hudson. Nutter said yes, that is right, and nothing has to be changed to the electric bill.

Marsh said from her experience it is more expensive to buy renewable energy than fossil fuel energy. Nutter said they aren't actually selling electrons directly. They are feeding electricity directly onto the grid which will become electricity credits that Central Hudson will tally and distribute on a monthly basis towards customer's bills.

Stabile asked about the state programs. Gordon said there are a few different incentive programs that the state facilitates. Gordon said there is a VDER and Megawatt Block programs. Osofsky asked if the programs are going to be going on for a long time and how can they bind Central Hudson to it. Gordon said they are regulated by the Dept of Public Service of NY. Gordon said there is an enhancement to the grid that the project pays for.

Marsh said she had a question regarding the O&M Plan and who is actually the applicant of the project. Marsh asked what holds these other companies, such as Nexamp, responsible to Carson Power, the applicant. Gordon said everything goes through the project's entities. Carson and Nexamp have signed an agreement. Once the project goes through it becomes Nexamp's project but at this point it is Carson's project. Replansky added that the O&M Plan would need to be approved by the Planning Board.

Stabile asked who has the relationship with the REIT. Gordon said they are primarily a Carson relationship. Stabile asked what would happen if halfway through the project there are no more solar panels to be had. Gordon said they have a decommissioning plan and a decommission bond will be put in place. Replansky said that situation would be covered by a construction bond not the decommissioning bond and that the Planning Board can ask for a construction bond to be put in place.

Marsh asked if Nexamp and Carson have done a project together before. Gordon said they have a few projects that they are currently working on together. He also said that Carson Power has not yet brought a solar project to fruition.

Osofsky then read the resolution declaring the planning board as the lead agency (see attached).

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Stabile asked for a motion to accept the resolution, motion by Hermans, second by Patterson, all in favor, motion carried.

Stabile asked for a motion to schedule a public workshop meeting regarding Carson Power at the library on March 11th at 10:30am, motion by Hermans, second by Patterson, all in favor, motion carried.

Gordon then gave an example of a visual impact study. Stabile brought up doing a balloon test. Osofsky said a photo simulation would be better instead of a chart. Replansky said the visual impact would need to be evaluated. Marsh said it may be difficult since a lot of trees are going to be taken down.

Stabile asked for a motion to hire BFJ Planning to assist with the project, motion by Patterson, second by DiMaria, all in favor, motion carried.

Stabile asked for a motion to have a planning board workshop meeting at town hall on February 22nd at 7:00pm, motion by Osofsky, second by DiMaria, all in favor, motion carried.

Approval of January Meeting Minutes: Approval of January meeting minutes was postponed until the March Meeting.

Meeting adjourned at 9:45 pm.

Respectfully submitted by:

Tricia Devine

Michael Stabile

TOWN OF PINE PLAINS PLANNING BOARD

**RESOLUTION APPROVING SITE PLAN APPLICATION OF RURAL CENTER
REFILLERY LLC**

WHEREAS, Rural Center Refillery LLC has made application to the Town of Pine Plains Planning Board for site plan approval for a 1,000 square foot ± unit at the property located at 2881 Church Street, Pine Plains, New York, Tax Parcel No. 134200-6872-18-278243-0000 for the conduct of a refillery store; and

WHEREAS, said property is owned by Stissing Farms LLC, who has provided a consent to the Planning Board for the proposed use and application; and

WHEREAS, the property is located within the Town's Hamlet Main Street (H-MS) District in which such a use is permitted subject to site plan approval; and

WHEREAS, the property was formerly used for office space and there will be no exterior site plan improvements to the said space except for a sign and designation of parking spaces which have been indicated on a site plan submitted to the Planning Board for review and approval; and

WHEREAS, the application was discussed and reviewed by the Planning Board at its January 11, 2023 meeting; and

WHEREAS, the application has been reviewed by the Attorney to the Town and the Town Engineer; and

WHEREAS, the Planning Board determined that a public hearing on said site plan is not necessary and has waived the requirement of the same; and

WHEREAS, the applicant has represented and provided proof to the Planning Board that the proposed use does not require approval by Dutchess County Department of Health but does require approval of a food processing establishment by the New York State Department of Agriculture and Markets; and

WHEREAS, the applicant has provided proof that it has made the necessary application for a food processing establishment license to New York State Department of Agriculture and Markets; and

WHEREAS, the applicant has represented to the Planning Board that Ag & Markets will not be able to provide a formal statement indicating that the proposed business activities falls under Ag & Markets jurisdiction until the property is inspected by AG & Markets and the application is reviewed and approved by Ag & Markets; and

WHEREAS, the application was again reviewed by the Planning Board at its February 8, 2023 meeting.

NOW, THEREFORE, be it

RESOLVED, that the said site plan application of Rural Center Refillery LLC is hereby approved subject to the following conditions:

1. That the business operation be conducted in a manner which does not require approval by the Dutchess County Department of Health;
2. That the applicant obtain approval of its food processing establishment license and any other approvals required from the New York State Department of Agriculture and Markets for its intended use;
3. That there shall be no food preparation or foods consumed on-site;
4. That the business be operated in conjunction with the site plan submitted to the Planning Board for its approval;
5. That the business be operated in accordance with the requirements of the Department of Agriculture and Markets food processing establishment license issued to the applicant; and
6. That all application, escrow fees and other charges imposed on this application by the Planning Board and Town Code be paid prior to signing of the site plan by the Planning Board Chairman.

The Planning Board members voted as follows:

Michael Stabile, Chairperson	Aye
Vikki Soracco, Vice Chairperson	Did Not Vote
Al Blackburn	Aye
Scott Cavey, Alternate	Absent
Ethan DiMaria	Aye
Richard Hermans	Aye
Helene Marsh, Alternate	Aye
Kate Osofsky	Aye
Steve Patterson	Aye

The Resolution was carried by a 7 person vote of the Planning Board members
on February 8th, 2023.

Tricia Devine

TRICIA DEVINE, PLANNING BOARD
CLERK, TOWN OF PINE PLAINS

TOWN OF PINE PLAINS PLANNING BOARD

RESOLUTION DECLARING THE TOWN OF PINE PLAINS PLANNING BOARD LEAD AGENCY FOR PURPOSES OF CONDUCTING A COORINDATED REVIEW PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) OF THE APPLICTION OF PULVERS CORNER SOLAR 1 LLC AND PULVERS CORNER SOLAR 2 LLC FOR A PROPOSED SOLAR DEVELOPMENT LOCATED AT 454 BEAN RIVER ROAD IN THE TOWN OF PINE PLAINS

WHEREAS, Pulvers Corner Solar 1 LLC and Pulvers Corner Solar 2 LLC have made application to the Town of Pine Plains Planning Board for a proposed community solar development located at 454 Bean River Road (Tax Parcels Nos.: 7071-00-250960-0000 and 7071-00-084941-0000) in the Town of Pine Plains, Dutchess County, New York (hereinafter “Project”); and

WHEREAS, the Planning Board, at its meeting on December 14, 2022, classified the Project as a Type I action under SEQRA and declared its intent to serve as SEQRA lead agency and to conduct a coordinated review of the said project; and

WHEREAS, the Planning Board duly served notice of the project and its intent to act as lead agency on the following involved agencies: Pine Plains Town Board; Dutchess County Department of Planning and Development; New York State Department of Agriculture and Markets; New York State Energy Resource and Development Authority; New York State Department of Environmental Conservation – Region 3; and New York State Department of Transportation – Region 8, by letters dated December 16, 2022; and on the Town of Pine Plains Zoning Board of Appeals by letter dated January 5, 2023; and

WHEREAS, each of the above involved agencies either provided their consent to the Pine Plains Planning Board for its assumption of lead agency status for the proposed solar development project or failed to respond to said notice within thirty (30) days of the date of the letter; and

NOW, THEREFORE, be it

RESOLVED, that the Pine Plains Planning Board hereby declares itself as lead agency for purposes of conducting a coordinated SEQRA review of the project in accordance with the requirements of the State Environmental Quality Review Act and Part 617 of the Implementing Regulations of Article 8 of the New York State Environmental Conservation Law; and be it further

RESOLVED, that the Planning Board reaffirms its designation of this action as a Type I action under SEQRA and its intent to conduct a coordinated review of said project in accordance with the requirements of SEQRA; and be it further

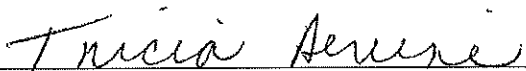
RESOLVED, that the Planning Board Clerk shall distribute copies of this Resolution to all of the involved agencies and shall file a copy of the same with the Pine Plains Town Board and post the same on the Town’s official website and on its notice board; and be it further

RESOLVED, that this Resolution shall take effect immediately.

The Planning Board members voted as follows:

Michael Stabile, Chairperson	Aye
Vicki Soracco, Vice Chairperson	Did Not Vote
Al Blackburn	Aye
Scott Cavey, Alternate	Absent
Ethan DiMaria	Aye
Richard Hermans	Aye
Helene Marsh, Alternate	Aye
Kate Osofsky	Aye
Steve Patterson	Aye

The Resolution was carried by a 7 person vote of the Planning Board members on February 8th, 2023.



TRICIA DEVINE, PLANNING BOARD
CLERK, TOWN OF PINE PLAINS