

March 10, 2023

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

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

ZOOM ATTENDANCE:
(Members attending via Zoom do not count towards the quorum or voting.)

ABSENT: Vikki Soracco

ALSO PRESENT: Warren Replansky, Town Attorney, in person
George Schmitt, Town Engineer, in person
Sarah Jones, Town Liaison, in person
Frank Fish, BFJ Planning, via Zoom
Andrew Gordon, Carson-Power, in person
Chris Bertram, Carson-Power, via Zoom
Vardaan Gurung, Carson-Power, via Zoom
Eric Redding, Bergmann Associates, via Zoom
Raquel Parks, Carson-Power's Attorney, via Zoom
Kelly Saladis, CPNY, via Zoom
Wesley Chase, Applicant
Five Members of the Public, in person

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

Carson-Power, LLC: Stabile said we are continuing the Carson-Power application and that the public hearing has been held open. Stabile said the board had a workshop meeting where the board went over the part II EAF and created a draft which enabled them to develop questions for the applicant. Stabile

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said the board has created a draft document of the issues presented by the public and the board that they will be presenting at the workshop meeting on March 11th.

The board then looked at the line-of-sight document sent by Gordon. Stabile said the board would like to see a view from the southeast over towards Skunks Misery Road. Stabile said they were concerned about the northeast corner and the trees that were to be removed and would that open up any sort of view from the northeast direction.

Schmitt said one thing that can be asked is the stationing along the profile. i.e. identifying where the trees are on the satellite map.

Gordon said he suspects they will revise their site plan to maintain some of the evergreen pocket on the southeast ridge to preserve that sight line.

DiMaria said he is concerned about the view from Carson Road as he feels this is the public viewshed. Gordon said he would take a look at Carson Road and get back to the board.

Gordon said they would use the Galliher property as their southeast view.

Stabile asked Schmitt to go over his site visit with the wetland scientist. Schmitt said they went over the areas that the national wetland inventory map shows as potential wetland areas. Schmitt said there were not wetland soils, wetland overstory, herbaceous layer, or hydrology, so Schmitt agrees that there are no wetlands.

Stabile asked about the 239M referral from the county and measuring the site in different seasons. Schmitt said the indicators for a wetland do not go away just because there may be a drought, etc. Stabile asked Schmitt about any species in the area of the site, i.e. bog turtles. Schmitt said he does not believe any are there.

Hermans asked about the county's concern with seasonal flooding. Saladis said the soils are not staying saturated after the growing season to give hydric soil conditions.

Stabile asked about the bats. Schmitt said one has to work within the "bat window" when doing the tree cutting. If that is not possible then the DEC requires a biologist on site

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inspecting each tree. Stabile asked when the bat window is and Schmitt replied over the winter, November to the end of March.

Marsh asked if it was possible to have a biologist do a survey of the area during that bat season. Schmitt said it wasn't necessary unless you were physically going to cut trees because a bat may not be there one day but then be present another day.

Stabile asked Gordon if they were to receive approval would they be waiting until after the bat window. Gordon replied that a business decision would have to be made, depending on the time, and if it would be worth hiring the biologist.

Stabile asked if the bats in other trees would be disturbed by the cutting of the trees on site. Schmitt said he supposed to a certain extent, but the DEC does not regulate it.

Marsh asked if there is a way to determine on the project site which area is more likely to have bats. Schmitt said yes and it would involve an environmental specialist. Gordon said they will be treating the whole area as potentially having bats. Marsh said she is concerned with not only the killing of bats, but potentially removing their habitat. Schmitt said something could be set up to replace the trees, i.e. bat houses. Schmitt said he understands Marsh's point of taking more evergreens than say hardwood, since that is what the bats prefer. Marsh said loss of habitat is one the main issues with respect to species decline. Stabile asked where the bats migrate to outside the tree clearing window. Saladis replied that in the winter the bats reside in their hibernacula.

Fish then gave some advice to the board in regard to filling out the EAF Pt II, especially in items checked off as potentially "large impact".

Marsh said to Saladis in her letter dated January 6th, it said if a significant amount of tree clearing is proposed, a potential effects determination should be coordinated with USFWS. Marsh wanted to know what determines a significant amount. Saladis replied that a significant amount is not necessarily triggered by just a number, but 10 acres is usually a number used by many agencies. Saladis said one thing a project needs to do is prove that it will not have an adverse effect on species. Saladis said if you do not need a federal permit, and do not need federal funding, then you cannot have an incidental take. Since the permit is not there then an informal coordination with the USFWS needs to take place. Marsh asked if this project was a

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significant amount. Saladis said in terms of SEQR and effects on potential habitat she feels it is a moderate to large impact, but she does not feel it is a significant impact triggering an EIS.

Stabile asked about monarch butterflies and how it relates to this area and habitat. Saladis said the species is not listed formally as of now, therefore there are no official requirements for it.

Hermans asked about a glare analysis. Stabile said they would have a nonreflective coating as per the town's code.

Marsh asked how high off the ground are the panels. Redding said they are three feet off the ground.

Stabile asked about blasting and boring holes and the compacting of soils. Redding said there is no bedrock that would need to be blasted. Redding said there was ground water at two of their test pits on the site, the rest were completely dry up to 12 feet down. DiMaria asked if the grading would affect this number. Redding replied no, not in the areas that they tested. Marsh asked what the depth in the wetlands area is. Redding said there are no wetlands on site and the depth to the water was 4 feet down in one test bit and 8 feet down in another, the rest did not have any. Stabile asked where these two test pits are. Redding said sort of in the central and south-central area of the array.

Gordon asked Redding the result of the bore at TB09. Redding replied it was 3" of topsoil, and the rest of it was brown gray clay silt, gravel, rock fragments, and a little sand.

Gordon asked Redding about the impact on land, construction on slopes. Redding replied that the racking can be built on slopes up to 25%. Most of the site is less than 10%, with a few areas at over 15%, some minor grading will be done to smooth them out.

Stabile asked how far the poles go into the ground. Redding replied 8 or 9 feet. Gordon asked what happens if the bedrock is shallower than 8 or 9 feet. Redding replied to it could be screwed into the ground. Hermans asked if there would be any drilling. Redding replied to no.

Marsh asked about the site being at 55% or more of a 15% or more slope. Redding replied that is around the site where there are

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much steeper slopes, outside of where the panels will be. Redding said they base the EAF on the property lines.

Stabile asked what the significance of the grading is. Gordon replied it is a SEQR question. Schmitt said it pertains to more traditional construction, i.e. a box store that was being built, you wouldn't want it done on a steep grade and then having them blast through bedrock since it would greatly impact the environment. Redding said they do not want to do a lot of earth moving for these projects so they do look for the best location.

Marsh asked what happens during construction in the rainy season - how are the sloped areas' runoff being mitigated. Schmitt said that is where the stormwater prevention plans, the applicant submitted come into play. Redding said they typically put silk socks down.

Marsh asked about the retention pond. Redding said it's a bioretention pond that is at the beginning of the driveway that is not made to hold water, but to filter the water. Redding said the DEC requires that they treat the water quality from the stormwater runoff from the gravel driveway. Redding said the basin does not hold water. Marsh asked if it was based on soil types at that location or do they need to bring soils in. Redding said the DEC requires a specific soil media that has to be used for the filter material.

Gordon went on to the section regarding the proposed action involving the excavation or removal of more than 1000 tons of natural material. Redding replied that they are not exporting or importing any material besides the soil for the bioretention pond or the stone for the gravel driveway. Redding also said all soil on site will remain there.

Gordon asked about the proposed action having construction that will take place for more than a year or in multiple phases. Redding said it will be in one phase and is usually completed in 6 months.

Gordon moved on to whether the proposed action would cause an increase in erosion or vegetation removal. Redding said for solar projects the DEC does regulate this and requires a permanent level spreader at certain intervals down the slope. The level spreader is a trench filled with stone which water would filter into, which eliminates any risk of erosion. Stabile asked if this would be done at the area of concern near

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Sugar Hill Farm along the west property line. Redding replied yes.

Stabile said he wanted to go over the part of the EAF Pt II where it asks about changing the intensity of the land. Fish said section 18 deals with community character and yes there is an impact since it's agricultural, rural, and forested. The meadow style plantings around the site that the applicant has proposed will help mitigate this. Stabile asked that trees be planted in the southeast, not for screening, but for growing.

Fish mentioned section 17 consistency with community plans. Fish said the town does have a solar law which allows tier 3 solar installation so in that sense there is consistency with the comprehensive plan.

Hermans asked about section 15 and noise. Stabile said once it is built there will be no noise, but there will be during construction. Stabile said they could mitigate this by setting hours. Stabile asked about the chipping. Gordon said chipping would be on site but larger trees would be hauled off site. Gordon said the chipping should take about two weeks and be done at the center of the site.

Stabile asked Replansky how the board should proceed. Replansky said at some point the board needs to make their SEQR determination.

The board then reviewed the draft issues and responses document pertaining to Carson-Power.

Marsh asked if having the solar project would affect someone applying for residential solar, i.e. would Central Hudson put a cap on it. Gordon replied no, someone applying for residential roof top solar would not receive a restriction from Central Hudson. Stabile asked about this project connecting into the grid and the capacity on the rest of Pine Plains. Gordon replied it would take up some of the capacity for generation onto the grid, which would make another project of this scale not possible on the grid, but there is always room for smaller rays. Stabile asked Gordon if he had any approval documentation from Central Hudson. Gordon replied they have a connection agreement.

Stabile said the Fire Dept is looking for a knox box set up so that they will have access to the site should there be a fire issue.

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Stabile said they have not found any toxicity documentation dealing with the solar panels.

Stabile said in terms of due diligence, beyond the construction bond, etc. the planning board does not have any purview into the financial statuses of the companies involved, etc.

Stabile said the planning board has been very transparent regarding this application.

Stabile said the recycling of the panels is out of the planning board's purview and it is hard to say what the process would be like in twenty-five years.

Hermans asked about the pilot proposal and when the solar ray is recycled, what is the tax situation for the property after the pilot expires. Stabile said the land would go back to farmland. Replansky said the pilot program is for 15 years. Replansky said the pilot program would be figured out with the applicant and the town board.

The board then reviewed what will take place at the workshop meeting on Saturday.

Ceen Properties, LLC: Stabile said the applicant had appeared before the board prior to receive an approval for an equipment storage building in the light industrial area. The applicant would now like to change the property to equipment storage and manufacturing.

Wesley Chase, representing the applicant, explained a bit about the application. Chase said the previous application is approved but still subject to the DOT entrance approval. Chase said he is waiting to complete the driveway maintenance agreement until after he hears the DOT's recommendations.

Chase said a small company out of Boston Corners, Alchemy Pure, would like to lease the large section originally intended for RV/camper storage, to do manufacturing of cannabis. Chase said there is an issue because in order to do manufacturing in the light industrial zone it requires a property of over 5 acres, which is not possible in that zone, because of this Chase is asking the board for a waiver.

Chase said some of the considerations for the manufacture of cannabis that they thought of was security and the mitigation of

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odor. The process inside would consist of two trips a week bringing the product into the facility and then the daily employee traffic of 5-10 employees.

Osofsky asked if the facility was far enough from the school. DiMaria replied yes, all the properties in the light industrial zone are 500 ft from the school. Schmitt also said it does meet the 500 ft but it isn't retail so doesn't matter anyway.

Chase said the applicants have done research on different filters and have found one that will keep the whole area and neighborhood free of odor. The applicants said they would not have much odor since they are using a dried plant and having them in jars and then turning into cigarettes, which would then be sold to dispensaries. The applicant then explained a bit about the process so the board would understand.

Replansky asked where they were in their licensing process. The applicant replied that they are fully licensed until June 2024 for conditional cultivation. They hope to apply for a distribution license when they are available.

Schmitt asked how much water they would need. The applicant replied probably 40-50 gallons, roughly 10x a day. Stabile asked where the water goes after, is it filtered out? The applicant replied it's not a great deal of water and he's sure they would be filtering it but they are not at that step yet.

Marsh asked if there was an issue with the septic capacity and starting the water treatment process. Chase said the previous barn at that location used a ton of water every day. Stabile asked Schmitt if the BOH would need to be involved. Schmitt said it depends how the term septic system is being used, if it is being used as a sanitary code, they are only allowed to accept human waste. If they had a gray water system, it is not a regulated wastewater system. Schmitt confirmed that if it is a regular septic system then it can not be used. Chase said he would do some testing and submit minor engineering plans to Schmitt.

Stabile said that Weaver would like to see an indoor floor plan.

Replansky said he didn't think the 5-acre requirement could be waived. Stabile said that Weaver thought it could be.

Chase said there will be cameras on site for security and the hours of operation will most likely be 8am to 5pm, Monday thru Saturday. There will be no signage.

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Replansky feels a full EAF should be completed.

Osofsky asked if they would be growing all year - the applicants replied that they are growing seasonally, but will be manufacturing all year. The applicant said their growing license is for one acre only.

Telecommunication Remote Resolution Discussion: Stabile said the open meetings law now only allows a member to participate in a meeting remotely if it is extenuating circumstances. In order to do this a resolution would need to be drafted and passed. Stabile asked if the town board was also considering this and Jones replied to no. Replansky said he would bring it up at the next town board meeting.

Pending Zoning Variances: Stabile said there three applications in front of the ZBA. Stabile wasn't sure if the ZBA needed comments from the planning board. Replansky said it is not mandatory but it is good practice for the ZBA to make a referral to the planning board for comment. Stabile said the Carson-Power fence height variance would not be able to be ruled on since it is a coordinated review with the planning board. Stabile said the Stewart's Shops application would eventually be submitted to the planning board.

Approval of January Meeting Minutes, January Special Meeting Minutes, and February Meeting Minutes: Stabile asked for a motion to approve the January meeting minutes, motion by DiMaria, second by Patterson, all in favor, motion carried. Stabile asked for a motion to approve the January Special Meeting Minutes, motion by DiMaria, second by Hermans, all in favor, motion carried. Stabile asked for motion to approve the February meeting minutes, motion by Hermans, second by Patterson, all in favor, motion carried.

Motion to adjourn at 10:15 pm by Patterson, second by DiMaria, all in favor, motion carried.

Respectfully submitted by:

Tricia Devine

Michael Stabile