

Town of Union Planning Board Minutes

Tuesday, April 13, 2021

The Town of Union Planning Board held a regular meeting on Tuesday, April 13, 2021, at 3111 E. Main Street and via Zoom Virtual Meeting Software.

Members present: L. Miller, L. Ciccirelli, S. McLain, T. Crowley,
S. Forster, M. Jaros, D. Kudgus, K. Rose (Alternate)
Others present: Marina Lane, Sara Zubalsky-Peer, Erin Hazen, Sarah Campbell,
John Miller, Chad Kies, Sarah May

A. CALL TO ORDER

Chairman Miller called the meeting to order at 7:14 p.m. and Ms. Lane called the roll of the Planning Board members. Ms. Miller noted that there was a quorum present.

Ms. Miller read the Recommended Procedure and Executive Order regarding virtual meetings.

B. MEETING MINUTES

1. Acceptance of March 9, 2021 Meeting Minutes

Chairman Miller asked for a motion to accept the March 9, 2021, Planning Board Minutes, as written.

Motion Made: L. Ciccirelli
Motion Seconded: M. Jaros
MOTION: Acceptance of the March 9, 2021, Planning Board Minutes as written.
VOTE: **In Favor:** L. Miller, L. Ciccirelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Acceptance of Public Hearing Transcript: 4324 Watson Boulevard: Special Permit for Floodplain Development

Chairman Miller asked for a motion to accept the March 9, 2021, Public Hearing Transcript for the Special Permit for Floodplain Development at 4324 Watson Boulevard, as written.

Motion Made: T. Crowley
Motion Seconded: D. Kudgus
MOTION: Acceptance of the March 9, 2021, Public Hearing Transcript for a Special Permit for Floodplain

Development at 4324 Watson Boulevard, as written.

VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, S. Forster, T. Crowley, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

C. Oakdale Battery Energy Storage Facility, 4311 Watson Boulevard, Erin Hazen

Oakdale Battery Storage LLC submitted an application for an energy storage facility in the Homestead Village Planned Unit Development (PUD). For the record, Ms. Lane noted that the Town Board declared Lead Agency for the entire Homestead Village Planned Unit Development Plan. Today the Planning Board is declaring Lead Agency for the site-specific site plan review.

1. Declare Lead Agency and Classify Project as an Unlisted Action

Chairman Miller asked for a motion to Declare Lead Agency and Classify Project as an Unlisted Action

Motion Made: L. Cicciarelli
Motion Seconded: S. McLain
MOTION: Approval to Declare the Planning Board as Lead Agency and Classify Project as an Unlisted Action.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. SEQRA Determination

Ms. Lane reviewed Part 1 of the Environmental Assessment Form (EAF) that was completed by the applicant, Oakdale Battery Storage LLC, and their engineering firm, Fisher Associates. The proposed action involves the planning and construction of a 120MW commercial battery energy storage system on a 14.3-acre portion of a 255.94 –acre parcel identified as tax parcel ID # 126.04-1-10.111, along Robinson Hill Road in the Town of Union, Broome County, NY. The Facility will consist of the installation of approximately 116 steel battery containers on concrete pads or piers. The containers will house racks of lithium-ion battery modules, SCADA equipment for system monitoring, protection, and control, and electrical cabling. The dimensions of the battery containers are approximately 8' x 53' x 9' tall. Each container includes integrated chiller systems to provide ventilation. A substation composed of inverters and transformers will be constructed on-site and will connect the Facility to the utility grid. A fence will be constructed around the Facility. Access roads will be constructed to access and maintain equipment.

Oakdale Battery Storage, LLC is aware that there is a pipeline traversing the western edge of the Project area – the Buckeye Partners pipeline, which carries non-highly volatile liquid (non-HVL) products. This pipeline and its right-of-way will be avoided.

Ms. Lane then reviewed the following questions on Part 1 of the EAF, as completed by the applicant and for the benefit of the public:

C.2 Adopted land use plans

The Town has a comprehensive land use plan, but that plan does not include specific recommendations for the site where the proposed action would be located. The project is in the Upper Susquehanna River Basin.

C.3 Zoning

The site is zoned PUD and this is a permitted use. The school district is the Johnson City School District. The Broome County Sheriff and Johnson City Fire Department will serve the project site.

D. Project Details

The general nature of the proposed action is an electric utility service for energy storage. The project will be constructed in a single phase. No residential uses are proposed.

D.2 Project Operations

Ms. Lane noted that there is no mining or dredging proposed. One question is whether the proposed action will cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area. The answer “yes” reflects that an access road may cross over delineated, non-state regulated streams utilizing culverts. A natural drainage system developed when Robinson Hill Road was constructed and a stream runs down along the side of the road. Plans call for the installation of a culvert for stream crossings with a total area of disturbance to waterbodies of less than 0.10 acre. There will be a disturbance of 2.45 acres, which is the total impervious area when you add the size of all the containers together; and therefore, the applicant submitted a stormwater management plan. A bioretention basin will capture and treat stormwater runoff and discharge prior to leaving the project site.

The project will not generate liquid waste. The project does not use any water or septic. There are no air emissions or regulated air emissions. There is no connection to the sewage treatment plant and there are no air pollutants. The project will not generate a significant amount of traffic above existing traffic. There will be an increase of traffic during construction, but afterward the site will generate only three to five trips during the week. It will not generate a demand for energy because the project will supply energy. There will be temporary noise impacts caused by construction equipment. A noise analysis

was submitted pertaining to the post-construction impacts. The project will leave a 465-foot wide vegetation buffer between the Project and nearest residence to act as a noise barrier. The analysis found that noise generation will be very moderate.

There will be outdoor lighting which includes motion activated security lighting with shields to reduce the light affecting other parcels. The Project will include some tree removal; however, a buffer of trees will remain which will continue to act as a light barrier. The lighting plan showed zero foot-candles along the road. No odors will be produced and there will be no storage of chemicals. There will be some weed growth, which will be controlled by EPA – approved herbicides, and pesticides will be applied only on an as-needed basis. There will be some management and disposal of solid waste. During construction, separate bins for recycling of metals and paper will be provided to minimize waste. The project is not expected to generate solid waste during normal operations. When maintenance or repairs result in packaging or other waste, bins will be used as needed with metals and paper separated where feasible. Removal and disposal of construction waste will be contracted through a local, licensed waste removal company. Recycling will be contracted through the same group, or a separate scrap metal recycling company. The project will not include the construction or modification of a solid waste management facility. It does not include any generation, treatment, storage, or disposal of hazardous waste.

E. Site and Setting of Proposed Action

There is an adjoining residential property south of the Project site, a commercial nursery to the north, a golf course to the south and west, a hotel to the southwest and a NYSEG substation to the east. Per the NY SPILLS database, the recorded unmapped spills at the two substations on the opposite side of Robinson Hill Road have been remediated to the DEC's satisfaction. They do not affect the site at all.

E.2 Natural Resources On or Near Project

The depth to bedrock is about 4.5-feet and there are no outcroppings. The drainage status of the project soil is 33% well drained and 67% poorly drained. This is up on the hill, so the drainage is understandable. There are intermittent drainage streams throughout the property. There is no floodway here. The whole project is over the Clinton Street Ballpark Sole Source Aquifer. The predominant wildlife are deer, rabbits and coyotes. There is no designated significant natural community. The DEC did not identify any rare species of plants or animals. The site is not contiguous to an archaeological site, or district listed on the National or State Register of Historic Places; and the DEC determined that this site would not trigger a NY State Historic Preservation Review.

Ms. Lane reviewed Part 2 of the EAF. In summary, there would be some physical alteration of the land surface of the proposed site; however, all of the impacts on the land would be small to none. There will be small impacts to the small intermittent streams that run through the property. There will be no impact on groundwater, on lands subject to flooding, and no impacts to the air. There will be a small impact due to the loss of flora or fauna. There will be no impact on agricultural resources, aesthetic resources, historical and archaeological resources, on open space and recreational resources, critical or environmental areas, transportation, and energy. Some minor impacts will be noise and light, but these impacts will be small. There will be no impact on human health. The project is consistent with community plans, and it is consistent with the community character, being across from the substation on Robinson Hill Road.

Ms. Lane then read Part 3 of the EAF, the Determination of Significance. Oakdale Battery Storage, LLC applied to construct a 14.3-acre battery array to provide capacity and ancillary services to the electric grid by storing and discharging electricity via the existing NYSEG Oakdale substation, as directed by the NY Independent System Operator (NYISO).

Impact on land: Greater than 50% of the facility footprint is on <10% sloped land, and the remainder on 10% or greater slope. Bedrock is 4.5-feet deep and the water table is on average 2.6-feet deep. These terrain issues would make other types of development difficult, but would not significantly affect this project. The 116 battery-storage structures, 8-feet by 53-feet, would be terraced down the slope, and provide a unique development opportunity for the property.

Impacts on surface water: The project site has no wetlands, but has three small intermittent/ephemeral streams and one perennial stream. The intermittent streams result from either rainfall or rising groundwater and would not be impacted significantly by the project. The perennial stream follows the swale along Robinson Hill Road, and a culvert would be installed at the point of entrance to the property. The US Army Corps of Engineers has confirmed that two streams are under ACOE jurisdiction and the appropriate design and installation of the culvert must comply with non-reporting Nationwide Permit standards. Potential erosion and drainage issues would be addressed by a swale system, and a bioretention pond to mitigate stormwater runoff.

Impact on plants and animals: Adding 2.45-acres of impervious surface to vacant land would disturb some animals and remove trees, but given the entire current parcel (4311 Watson Blvd.) has approximately 240-acres of woods and a golf course, the proposed development would not significantly affect plants and animals. US Fish and Wildlife Service found no rare, protected or endangered animals or plants. No NYS Critical Environmental Area would be

affected. In addition, the PUD has 109.5 acres of dedicated open space, including wetlands, forest and recreational space.

The proposed action would not result in any adverse effects on existing air quality, surface or groundwater quality or quantity. Noise related to the battery array would be mitigated by trees and distance. Screening trees also would mitigate potential visual impacts from the 9-ft high structures. Increased traffic during construction would be temporary, and once constructed, the project would result in 3-5 vehicle trips/week. Solid waste production during construction would be recycled or disposed of through a private waste disposal company. There would be minimal waste produced during normal operations. There would be no impacts to public water and sanitary sewer systems. The proposed action would not result in any adverse effects to aesthetic, agricultural, historic or other natural or cultural resources, nor community or neighborhood character, being across from an existing substation.

The proposed action would not result in any adverse effects on the community's existing plans or goals as officially adopted. The proposed action would not result in any adverse effects on growth, subsequent development, or related activities likely to be induced by the proposed action. The proposal would not result in any adverse effects in either quantity or type of energy, and in fact would be an asset by stabilizing the electric grid. The proposed action would support renewable energy use, and reduce the grid's dependence on non-renewable energy sources that negatively affect the environment.

This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared.

Chairman Miller then asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made:	D. Kudgus
Motion Seconded:	M. Jaros
MOTION:	Approval of the Negative Declaration under SEQRA
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus Opposed: None Abstained: None Motion Carried

4. Site Plan Review

Ms. Lane read her staff report to the Planning Board. Erin Hazen, Senior Director of Development, submitted an application on behalf of Oakdale Battery Storage, LLC for the construction of a 120 MW commercial battery storage facility on 14.27-acres at 4311 Watson Boulevard. The property is part of the 421.3-acre Homestead Village PUD Development Plan, and the

Town Board approved the battery storage use on February 17, 2021. The Planning Board approved the final PUD development plan on March 9, 2021. The size of the property increased from 9.66-acres to 14.27-acres due to NYS setback requirements for the storage of batteries, but the footprint of the actual project stayed relatively the same.

The battery energy storage system will connect to the grid at the Oakdale substation across the road on Robinson Hill Road. Its purpose is to provide stability to the electrical grid by storing or discharging electricity as needed. Development of the project is subject to a NY Independent System Operator (NYISO) interconnection study process of approximately 12-months, then an Interconnection Agreement with NYSEG, at which time final engineering will be complete. Ms. Hazen anticipates construction will last about 6-8 months, after which commercial operations can begin in Quarter 4 of 2023.

The facility will be located in a wooded area with one single-family residence significantly buffered by trees approximately 400-feet to the south, a mulch business on 55-acres to the north, the Oakdale substation and woods to the east, and all woods to the west. The Buckeye Pipeline along the west perimeter serves as a 25-foot buffer to the remaining 130+ acres of wooded area on 4311 Watson Boulevard alone, not including the Glen or woods on 4101 Watson Boulevard. The sloped site will be terraced for the placement of approximately 116 containers, each 8-feet by 53-feet, and 9-feet high. The containers will house racks of battery modules, and SCADA equipment (Supervisory control and data acquisition is a control system architecture comprising computers, networked data communications and graphical user interfaces for high-level process supervisory management). Related improvements include a substation with associated electrical equipment, gravel access roads, and stormwater control devices.

The owner of the facility will install a screened 7-foot privacy chain link fence around the entire project. Coniferous landscaping shall be planted along the entrance to screen the area from which trees shall be removed in order to construct the access road.

Public utilities are permitted in all zoning districts. The proposed new development exceeds all minimum bulk restrictions required in any zoning district, with the closest front setback being greater than 70-feet (Industrial zoning requires a minimum of 20-feet), and a minimum side setback of 30-feet or greater (Industrial zoning requires 10-feet adjacent to a non-residential use, and 25-feet adjacent to a residential use).

The facility does not require water or sanitary sewer utilities, and once constructed, will generate only 3-5 vehicle trips per week.

The Planning Board classified the applicant's proposal as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). Under the requirements of Section 617.7(c), the Planning Department recommended the approval of a Negative Declaration based on completion and review of the full Environmental Assessment Form. Measures to preserve as much forested land as possible include the strategic placement of the containers, and the avoidance of streams, steep slopes, highly erodible soils, and wetlands. Gravel access roads shall be 16-feet wide, the minimum width for construction vehicles and fire access. The ground surface around the containers will consist of pervious gravel.

Approximately 9-acres of soil will be disturbed, and a Stormwater Pollution Prevention Plan (SWPPP) was submitted for erosion and pollution prevention control measures during construction and for post-construction stormwater remediation. The stormwater management plan incorporates a swale system into a bioretention basin. Coniferous trees along the south, downhill side of the bioretention basin support the erosion control measures of the stormwater plan. The result of compliance with the SWPPP is that post construction stormwater quality shall, at the least, equal existing conditions.

The NYS Office of Parks, Recreation, and Historic Preservation determined the project would not impact any properties, including archeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places. The NYS Department of Environmental Conservation identified no rare or endangered species of animal or plant in this location.

The Planning Department recommends approval of the site plan with the following stipulations:

1. The stormwater plan, SWPPP, shall be finalized once the property address and Federal Tax ID number are received, prior to the issuance of any building permit. The contractor shall utilize erosion control and stormwater runoff preventive measures during construction, per the approved SWPPP.
2. A decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the large-scale energy system shall be submitted for review and approval by the Town Attorney prior to the issuance of a building permit.
 - (A) The decommissioning plan shall include:
 - a. An estimate of the anticipated operational life of the system;
 - b. Identification of the party(ies) responsible for decommissioning;
 - c. A copy or description of any agreement with the landowner regarding decommissioning;

- d. A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work;
 - e. A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the large-scale energy system;
 - f. A financial plan to ensure that financial resources will be available to fully decommission the site.
- (B) All responsible parties shall enter into a decommissioning agreement with the Town reflecting the decommissioning plan agreed to by the parties and the time frame for completion.
- (C) Financial plan. The party(ies) responsible for decommissioning must provide a letter of credit or financial surety in an amount sufficient to fully cover the cost of decommissioning and implementing the decommissioning plan. Prior to the issuance of a building permit and every three years thereafter, the large-scale energy system owner and/or landowner shall file with the Town a renewed letter of credit or financial surety to provide for the full cost of decommissioning and removal of the large-scale energy system in the event the system is not removed by the system owner and/or landowner. Letters of credit or financial surety shall remain in effect throughout the life of the system and shall be in the form acceptable to the Planning Board and the Town Attorney. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file a letter of credit or financial surety with the Town at the time of transfer, and every three years thereafter, as provided herein. The amount of the letter of credit or financial surety shall be determined by the applicant's engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the letter of credit or financial surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.
- (D) Transfer of ownership. Any resolution issued and all restrictions or obligations under such resolution shall transfer in full force and effect to any new owner of the land and/or owner or operator of the large-scale system.
3. The Town Department of Public Works and attorney shall review and approve the stormwater management system maintenance agreement and access easement. Subsequently, the maintenance agreement and access easement shall be filed with the deed, and a copy of the filing receipt shall be submitted to the Town Planning Department prior to the issuance of a building permit.
4. The maintenance of the stormwater management system, including but not limited to swales, retaining walls and the bioretention basin, shall be the responsibility of the property owner. Should the project be

decommissioned, maintenance of the stormwater management system shall continue to be the responsibility of the property owner until such time that the site has been restored to pre-construction conditions, as confirmed by the Code Enforcement Official.

5. Dust and mud control shall be maintained throughout the construction period, including along Robinson Hill Road.
6. Prior to the issuance of the SWPPP Notice of Termination, one AutoCAD version 2015, one PDF version, and two paper copies of the as-built drawings must be submitted to the Engineering and Planning Departments. The as-built shall include all improvements, particularly the stormwater control system.
7. The Town of Union Department of Public Works requires the developer apply for a permit from the Highway Department for the installation of the access drive on Robinson Hill Road. The developer will be responsible for the repair of Robinson Hill Road to the satisfaction of the Town Superintendent of Highway as a result of any road work necessary to the project.
8. A Knox Box shall be installed at a location to be determined by the local Johnson City fire department, and fire company training shall be provided prior to the facility becoming operational, and annually thereafter.
9. The 7-foot chain-link fence shall be enhanced with gray screening to blend into the woods. The fencing shall be maintained in an attractive manner at all times, with support structures facing the interior of the fenced-in area.
10. The landscaping plan shall be completed by October 30 of the year in which the facility becomes operational. An extension of this deadline may be approved by the Planning Board.
11. The landscaping shall be maintained according to the landscaping plan, and any dead or dying plants shall be replaced with similar plants within one month, weather permitting. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this chapter shall constitute a violation of these regulations 300-54.2.
12. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display.
13. Per 300-55.4, General Requirements,

A. All outdoor lighting fixtures shall be shielded, or the light otherwise contained on the property from which it originates (known as "light trespass limitations").

B. Exterior lighting fixtures shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level, taking into account levels for the closest IESNA activity.

C. To minimize the indiscriminate use of illumination, lighting, except as required for security, shall be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

14. Any new exterior lighting not shown on the lighting plan shall first be approved by the Code Enforcement Official.
15. Site plan approval shall expire after five years unless substantial improvements have been made pursuant to the approved site plan and a valid building permit.
16. The applicant shall be required to acknowledge all of the above conditions, in writing, no later than April 30, 2021. The applicant agrees to construct the project in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Pertaining to stipulation #4, Ms. Campbell, the attorney for the project, commented the site will be terraced and the client did not want to remove the terracing since that might be more destructive to the environment. Ms. Hazen said that their typical decommissioning agreement would include removal of all above ground facilities, removal of all concrete foundations to at least 36 inches below grade, but the underground cabling will stay. Ms. Hazen added that there is not a lot of underground cabling and they would end up tearing up the site a lot more if it were removed. All of the rocks would be removed and the walls would also be removed. In addition, they would stabilize the site in some way due to the slope. Ms. Hazen noted that it would be difficult to return the site to exactly as it was due to the terracing that is required for the project.

Ms. Sara Zubalsky-Peer noted that in her discussions with Ms. Lane and Mr. Caforio, it was that their intent was that the site would go back to a more

natural state. Ms. Hazen noted that a plan to replant the site with the species of trees and number of trees per acre to return the site to its natural state would also be developed.

There was some discussion about the decommissioning plan among Board members. Mr. Forster disagreed with leaving the concrete and conduit in the ground because they are a form of pollution. Ms. Lane noted that this would be a part of the decommissioning plan. Mr. Forster continued referring to the decommissioning plan, and felt that although it may be more costly for the developer, they should do what is best for the Town. Ms. Hazen responded that it is not their intention to look for any short cuts. The decommissioning plan is something that they can negotiate with the Town. Ms. Lane noted that the decommissioning plan is not just something that they give the Town; it is a document that has to be reviewed and approved by the Town Attorney.

Ms. Lane told Mr. Forster that she did not want to belabor a decommissioning plan now because it is going to come much later in the process. Ms. Lane's focus at this meeting was to concentrate on rewording the storm water stipulation, with the Planning Board's approval. Ms. Lane suggested the wording could be changed to read as follows: "Maintenance of the stormwater management system shall continue to be the responsibility of the property owner until such time as that site is restored and brought to the condition as described in the approved decommissioning agreement." Mr. Jaros asked if the decommissioning plan would be going through the Planning Board at a later date. Ms. Pope, the Town Attorney, answered that she believes it would go through the Town Board; she added that this is the first decommissioning plan the Town will be reviewing. Mr. Jaros commented that since this is our first one, we should make sure that we do it right. Mr. Jaros added that he is leaning towards Mr. Forster's philosophy that we have to make sure, once it is decommissioned, that the area is clean; because in years going forward, we don't know what the use of that land is going to be, and the last thing we want to do is leave pollution in the land. Ms. Pope said the decommissioning plan could be worked out so that it is acceptable to both parties. Mr. Jaros said that he would appreciate it if the Planning Board had the opportunity to comment on it. Ms. Lane noted that this could be done as an advisory opinion by the Planning Board.

Mr. Forster concluded the discussion by stating that he is looking towards the future so that the project is done right. His concern is for the people down the road. "I just don't want to leave something there that is going to burden future generations with what we let them leave on the property." Ms. Lane then asked Ms. Hazen if the revised statement about the stormwater plan worked for her, and she answered "Absolutely."

Ms. Lane also asked the Planning Board's opinion about the color of the fencing for the project. The Planning Board agreed that gray fencing would

be a better choice, especially during the winter. Mr. Cicciarelli asked Ms. Hazen where the transmission lines would be located. Ms. Hazen said that the New York State Independent System Operator study would determine whether the wires would be overhead or underground.

Chairman Miller then asked for a motion to approve the Site Plan for the Glidepath Battery Storage Facility at 4311 Watson Boulevard, with minor changes to the stipulations.

Motion Made: S. McLain
Motion Seconded: L. Cicciarelli
MOTION: Approval of the Site Plan for the Glidepath Battery Storage Facility at 4311 Watson Boulevard, with minor changes to the stipulations.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

Ms. Lane will write an approval letter with all of the stipulations as agreed to and modified tonight that will need to be signed and returned to the Planning Department. Ms. Lane will also write a resolution for Ms. Hazen specifically for the Oakdale Battery Storage LLC Project, which she will include with the approval letter.

D. The K-9 District – Dog Boarding, 4324 Watson Boulevard, Kassandre Murdock

1. Declare Lead Agency and Classify the Project as a Type II Action

Chairman Miller then asked for a motion to Declare Lead Agency and to classify the Project as a Type II Action

Motion Made: L. Cicciarelli
Motion Seconded: D. Kudgus
MOTION: Approval to Declare the Planning Board as Lead Agency and to classify the Project as a Type II Action.
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Call for Public Hearing for a Special Permit for Kennel / Boarding Use on May 11, 2021, at 7:00 p.m.

Chairman Miller then asked for a motion to call for a Public Hearing for a Special Permit for Kennel/Boarding Use on May 11, 2021, at 7 p.m.

Motion Made: S. Forster
Motion Seconded: L. Cicciarelli
MOTION: Approval of the motion for a Public Hearing for a Special Permit for Boarding/Kennel Use on May 11, 2021, at 7:00 p.m.
VOTE: In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

E. The Fairways Tavern Special Use Permit, 511 Hooper Road, John Miller

Mr. Chad Kies, the owner of the Fairways project, gave a short description of the project. They plan to have an upscale tavern, which will cater to golfers in the area. They will serve beer and wine with a very limited food menu. The location is great to get golfers in because there are three golf courses that are within a mile of the tavern. He also hopes that it will be a little pit stop on the way home or a night out with the family to enjoy some indoor simulated golf. Mr. Cicciarelli asked how many simulators there would be. Mr. Kies answered there will be four simulators and each simulator fits four people.

Mr. Miller added that this property is the former Ruby and Sons Jewelers location, across from Dunkin Donuts. Ms. Lane noted that the proposed business will be most populated at times when other businesses will have fewer people. Mr. Forster asked if Mr. Kies would apply for a liquor license. Mr. Kies responded that he would start out with beer and wine, and then put out feelers about a possible liquor license by the end of the year. Ms. McLain asked what the anticipated capacity of the tavern would be. Mr. Kies answered approximately 26 to 30 people. Ms. Lane noted that as the project goes through the review process, the Code Department would make a determination of what the maximum occupancy is.

1. Declare Lead Agency and Classify Project as a Type II Action

Chairman Miller then asked for a motion to Declare Lead Agency and Classify Project as a Type II Action

Motion Made: S. McLain
Motion Seconded: M. Jaros
MOTION: Approval to Declare the Planning Board as Lead Agency and Classify Project as a Type II Action
VOTE: **In Favor:** L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Call for Public Hearing for a Special Permit for a Tavern on May 11, 2021, at 7:05 p.m.

Chairman Miller then asked for a motion to call for a Public Hearing for a Special Permit for a Tavern on May 11, 2021, at 7:05 p.m.

Motion Made: D. Kudgus

Motion Seconded: M. Jaros

MOTION: Approval of the motion for a Public Hearing for a Special Permit for a Tavern on May 11, 2021 at 7:05 p.m.

VOTE: In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus

Opposed: None

Abstained: None

Motion Carried

F. JKS Construction Sign Area Variance, 3400 E. Main Street, JAX Signs Advisory Opinion to the ZBA

Ms. Lane noted that she had forgotten to send Jim Tabor of JAX Signs the agenda, therefore he is not in attendance, but the Planning Board could still discuss the project among themselves.

Ms. Lane explained that the Planning Board could see on the picture that they submitted that almost the entire project site is covered by either the building or a parking lot. The sign meets all Code requirements, except the should be eight-feet from the side property line, but it is proposed for two-feet from the side property line. Therefore, JAX Signs is requesting a six-foot area variance from the side property line.

Mr. Jaros asked if this was the only position for the sign. Ms. Lane responded that there is only a small strip of landscaping where the sign could be placed because of the parking lot, but it would be in front of the building. Mr. Jaros asked if the sign could be placed on the building. Ms. Lane noted that possibly Mr. Sager does not want it as a wall sign on the building because he wants the building frontage to be representative of what he can build. Ms. Lane commented that she has only heard positive comments about the building itself.

Mr. Forster noted that he wanted to make an advisory opinion opposed to the side setback variance of the six feet. Ms. Lane asked him for the reason he would make a negative motion. Mr. Forster answered because it was his prerogative and he gets to do that. Ms. Lane reminded Mr. Forster that all Planning Board members want to be respectful and want to show that they are being reasonable as members and employees of the Town of Union.

Ms. Lane asked for the reasoning or justification for a decision from the Planning Board members. Mr. Forster responded that his justification for a negative decision was that the sign is too close to the property line and that we have ordinances for a reason. Ms. Lane noted that sometimes the Town's requirements do not fit the reality of a situation, and the reality in this case is that the parking lot takes up all the available property other than the building and the little strip of landscaping in the front. The purpose of variances is to give relief from the Code as needed.

Mr. Jaros stated that the sign is not esthetically pleasing as a gateway to the Town. Ms. Lane responded that the Planning Board does not have that authority; as long as nothing is obscene on the sign, we cannot make esthetic judgments about signs. She added that the Town does not have any ordinances about the color of a sign. The size and height of the sign meets code requirements. It is just that, physically, the sign cannot be placed anywhere else on the property. Ms. Pope, the Town Attorney, noted that Planning Board members' rationale cannot be based on esthetics; and as a Planning Board member, there needs to be a rationale so that your recommendation is not considered arbitrary or capricious. Ms. Pope understands that this is just an advisory opinion but she agrees with what Ms. Lane is saying. Mr. Jaros asked if the sign were brought out six feet further, would it be in the middle of the driveway, and if that was the concern. Ms. Lane answered, "yes."

Mr. Cicciarelli commented that ultimately, the sign is legitimate, the size of it is legitimate, and the only thing JAX is looking for is to place the sign so that they don't lose any parking spaces in the lot. If the Zoning Board issued a negative decision, the applicant could still put the sign up within the parameters of the Code. Mr. Cicciarelli recommended that the Planning Board should give a positive consideration because if he really wants the sign, he could just move it into the parking lot. The esthetics of the sign that Mr. Forster and Mr. Jaros are talking about is really a moot point. In short, Mr. Sager has the right to put up a sign on his property as long as it is within the Town Code. Mr. Jaros clarified his justification. He said that he is not disagreeing with the esthetics of the sign, but he is opposed to the placement of the sign so close to the Burger King property. Since it is only two feet away from the Burger King property, it is crowded and it looks like you are just jamming things in there.

Mr. Kudgus asked when JKS originally purchased the property and proposed the parking lot, did he have any idea that he wanted to put a sign on the property. Ms. Miller answered that he did not have a sign. Ms. Rose stated that the Carr Printing sign was on top of the building, and the JKS Construction sign was leaned up against the lower part of the building, but that sign was always meant to be temporary because it said, "coming soon." Mr. Cicciarelli agreed with Mr. Jaros that the sign appears to be right on top of the Burger King. Mr. Jaros commented that the cars pulling out of Burger King might have

their view of traffic impacted by the sign. Mr. Kudgus agreed that he thought the sign might impair the visibility of patrons pulling out of the Burger King.

Mr. Forster said he felt that he was prevented from giving a negative recommendation to the ZBA. Ms. Pope answered that she was not sure that was being portrayed. Ms. Miller said that Ms. Lane is saying that you have to have a reason for recommending denial. Ms. Pope explained that it is fine if Mr. Foster is against the proposal, but that he has to have a rationale behind it as to why he is against it, and then he is doing what he is supposed to do as a Planning Board member.

Ms. McLain commented that she would like to see what the parking lot looks like from above to see how the parking lot is laid out. Ms. Rose stated that there is very little parking between the Pack and Mail and the JKS Building. The Burger King building is west of the JKS building, and Kwik Fill is on the triangle east of the Pack and Mail. If you are someone driving out of the Burger King drive-through, which is right-turn only, what you are looking at on your right hand side is very little, if any, traffic in the road that comes out of the Pack and Mail. All of the other traffic is coming from the farther side of that triangle and you are only looking to your left to get out of the Burger King driveway. Ms. Lane also noted that the sign has to be eight feet from the front property line, so the sign would not be anywhere near a car when they pull out of the Burger King driveway.

Ms. Lane said that if Planning Board members are concerned about the visibility for patrons leaving Burger King, then they should state that as the reason for recommending denial of the variance. Mr. Cicciarelli asked if the NYS DOT would approve the sign if it impeded visibility. Ms. Lane answered that the NYS DOT gives their opinion to the ZBA, not to the Planning Board. The ZBA is not scheduled to meet until May 17, 2021, so Ms. Lane suggested that the Planning Board members go out to the site so that they could make a more informed recommendation at the next meeting.

Chairman Miller then asked for a motion to table the discussion on the JKS Construction Sign until the May 11, 2021, Planning Board Meeting.

Motion Made: D. Kudgus
Motion Seconded: S. McLain
MOTION: Approval of the motion to table the discussion on the JKS Construction Sign until May 11, 2021, Planning Board Meeting.
VOTE: In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

G. Other Such Matters as May Properly Come Before the Board

Ms. Lane noted that she had put together a lengthy description of what the Planning Board expects from potential solar power development groups, and she forwarded it to the applicants for the 720 Riverside Drive Solar Project. The applicants responded very positively to say that they would be working with their engineers to submit a more complete plan. The demolition of the AES Westover Plant, the site of the project, is scheduled to start any time now.

Mr. Jaros asked if anything happened to Mr. Kashou's lighting project. Ms. Lane said that she told Mr. Kashou about the Planning Board's feelings on the project and he said okay. In addition, Mr. Kashou talked to Ms. Lane about converting the grass field to turf.

H. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 9:05 p.m.

Motion Made:	D. Kudgus
Motion Seconded:	M. Jaros
MOTION:	Adjourning the meeting.
VOTE:	In Favor: L. Miller, L. Cicciarelli, S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus Opposed: None Abstained: None Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, May 11, 2021, at 7:00 p.m.

Respectfully Submitted,
Carol Krawczyk