

Town of Union Planning Board Minutes
Tuesday, August 9, 2022

The Town of Union Planning Board held a regular meeting on Tuesday, August 9, 2022, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros

Members absent: T. Crowley, C. Curtin

Others present: Marina Lane, Justin Mirando, Dan Brocht, Kelly Sullivan, Peter Dolgos, Bob Kashou, Todd Anderson, Roger Brown, Linda Mackenzie, Lisa Gallagher, Marian Towers, Greg Catarella, Rachel Johnson, Bob Potochniak

A. CALL TO ORDER

Chairman Miller called the meeting to order at 7:02 p.m.

B. MEETING MINUTES: Postponed

C. Hooper Road Apartments, 609 Hooper Road, J. Mirando / CDS Housing

Mr. Dan Brocht from LaBella Associates, joined by Justin Mirando of CDS Housing, gave a short presentation about the revised site plan. In January 2020, the Planning Board approved the site plan to build a four-story, 102-unit affordable housing project for seniors. CDS Housing is proposing to reduce the number of units to 80, and parking spaces have been reduced from 100 to 80 parking spaces, reducing the footprint of the project by about 40 percent. The building has been straightened out and reduced from 111,000 square-feet total (meaning all four floors), to 82,000 square-feet. With the reduction in the number of units, there is less lighting and less disturbance to the property due to grading. The entrance to the project is moved from the south side to the north side of the building, keeping it away from residential property, understanding that the County will have final say on the location of the entrance. Reduced impervious area results in a change to storm water management plans as well. Rather than having detention ponds, the site will have bioretention areas, all mowable with no standing water.

Mr. Forster asked why CDS Housing is keeping the building height at four stories if they are downsizing the project. Mr. Brocht answered that they have to maintain that height to keep the size of the units required by the funding source. Mr. Forster asked why CSD is reducing the number of units. Mr. Justin Mirando responded that the number of units is based on the requirements of the funding source. It is more costly to lay out the building over the entire site, and by reducing the number of units, they were able to reduce the cost of the project. Ms. Lane informed the audience that the project had previously been granted a height variance, and the project is adjacent to the Marian Apartment building that sits at a higher elevation and has seven-to-eight stories. Mr. Brocht added that reducing the footprint also enables the design to keep some distance from the creek, which is desirable.

When asked, Mr. Brocht said that the same amenities for the project would remain as previously approved. They will still work with the Endwell Fire Department and Town on the design. The only change is the reduction of the building and parking lot. Mr. Miranda said that the apartments would only be available to senior residents 55 and older, as required by the funding source, and that will be deed restricted as well. Mr. Brocht noted that the units are available to frail elderly seniors; however, the units are not designed to be full-care facilities for seniors. There was also a question asked whether seniors would be allowed to have grandchildren come to live with them. Mr. Miranda indicated that SEPP Management will assist with the management of the apartments. Ms. Lane noted that the issue of grandchildren living in the units is not relevant to the discussion of the revised site plan.

Ms. Lane then reviewed her staff report. The property is zoned Neighborhood Commercial with a Hooper Road Overlay district, and the multi-family residential use is permitted. The apartment building will have a residential look, and according to the regulations of the Hooper Road Overlay District, parking is not located between the building and the street. Following a public hearing, the Zoning Board of Appeals granted a height variance of 23-feet on February 3, 2020.

The Town of Union has received a revised site plan with small revisions decreasing the number of units and footprint of the proposed building. The number of units has been reduced from 102 to 80 units, still geared primarily towards seniors and a percentage for the disabled. The approved footprint of the building of approximately 25,310 square-feet has been reduced to 20,500 square-feet.

Parking for senior housing is 1.3 per unit, and therefore the number of required parking spaces has been reduced from 133 parking spaces to 104 spaces. The Town prefers that developers construct only the necessary number of parking spaces in an effort to minimize impervious surfaces and per § 300-63.8 of the Town Code, the Planning Board has the right to waive 25% of required parking as long as the applicant shows they can provide the required number of spaces. With the approved reduction of 75% constructed spaces permitted in 2020, the number of required spaces at 75% is now 78 parking spaces. The developer shall submit two parking plans, one providing 75% of the required parking (78 spaces), and one showing full parking lot build-out of 104, which Code Enforcement can require be constructed if they see a consistent issue with lack of parking.

The building is accessed from the rear of the building, and the parking lot provides a 40-foot space at the entrance to facilitate emergency vehicle parking. A fire access lane will be constructed using pavers that will stabilize the lane, but maintain the grass at the same time for a more aesthetic appearance.

The site is served by public water, sanitary sewer and municipal storm sewer. The building will have a sprinkler system, and LaBella Engineering met with the Village of Endicott Water Department and Endwell Fire Department in 2020 to determine appropriate domestic and fire water line locations and design. Once

the project receives funding, follow-up review with the Village of Endicott Water Department and Endwell Fire Department will be required. The original stormwater management design has been submitted for review and shall be revised for the smaller impervious area, upon funding.

Similarly, revised landscaping plan and lighting plan shall be submitted for Planning Board's review upon funding of the project.

The applicant's proposal was classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA) and the Planning Board made a Negative Declaration determination on January 14, 2020.

The B.C. Engineering Department advised that any work done in the County Right-of-Way will require a Highway Work Permit issued by the Broome County Highway Department. Further, the driveway entrance should be designed in accordance with NYSDOT driveway standards and guidelines. The developer should be aware that the Hooper Road Bridge (3349750) over Patterson Creek Replacement project will be under construction during the 2023 construction season. General access to this site may be difficult or delayed during the bridge replacement project.

The Planning Department recommends preliminary approval of the site plan contingent upon the following stipulations:

1. Upon approval of funding, please submit a complete revised set of site plan drawings for the Planning Department, Building Official, and Planning Board's final review, including the "Conventional" parking plan for all 104 parking spaces.
2. Upon approval of funding, please submit a complete digital SWPPP for review by the Town's engineering contractor. The final SWPPP shall be approved prior to the issuance of a building permit.
3. A pre-construction meeting shall be held with the Building Official and contractors no less than one week prior to construction commencing.
4. The contractor shall utilize erosion control and stormwater runoff preventative measures during construction, per the approved SWPPP. Stormwater control systems shall be maintained by the property owner, indefinitely, per the SWPPP. A maintenance agreement and access easement shall be reviewed and approved by the Town Department of Public Works and attorney. Subsequently, they shall be filed with Broome County Real Property, and a copy of the filing receipt shall be submitted to the Planning Department prior to the issuance of the final Certificate of Occupancy.
5. Within 30-days of issuance of the Certificate of Occupancy, one AutoCAD version 2021 and one PDF version of the as-built drawings must be submitted to the Engineering and Planning Departments. The as-built shall include all infrastructure improvements, including the stormwater control system.

6. The parking lot shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The required handicapped-accessible parking spaces shall conform to the Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access spaces shall be no less than eight-feet by eighteen-feet (8'x18'). All paving and striping shall be complete prior to the issuance of a Certificate of Occupancy.

7. The "Conventional" parking plan shall be constructed if Code Enforcement requires due to a consistent issue with lack of parking. Construction shall commence, weather permitting, within one month of notification by the Code Enforcement Official. Should the building be occupied by a new business at any time in the future, the Code Enforcement Official shall be notified and a determination may be made that the additional parking be installed prior to their occupancy.

8. The landscaping plan shall be installed by October 30 of the year that follows the issuance of a building permit. An extension of this deadline may be approved by the Planning Board.

9. Trees shall have minimum caliper of two inches at the time of planting. Shrubs shall have a minimum height of two feet at the time of planting.

10. 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.

11. For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs, portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. The use of electronic message boards is expressly prohibited.

12. Per 300-55.4, General Requirements,

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

B. 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.

13. Any new exterior lighting not shown on the lighting plan shall first be approved by the Code Enforcement Officer.

14. A Certificate of Occupancy shall be required before occupancy of the new building.

15. Per NYS law, common areas within multi-family residential buildings must be inspected by the Municipal Fire Code Inspector every year. It is the applicant's responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920 once again each year after the issuance of the Certificate of Occupancy.

16. There shall be no outdoor storage on the property.

17. Site plan approval shall be valid for three years from August 9, 2022 (August 12, 2025), unless substantial improvements have been made pursuant to the approved site plan and a valid building permit. The Planning Board may approve a request for an extension of this date with a reasonable justification for the request.

18. The applicant shall acknowledge all of the above conditions, in writing, by August 26, 2022. 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.

Mr. Brocht asked Ms. Lane to change the wording in the report under staff recommendations to "revised" site plan approval rather than preliminary approval. He said that the state looks at the words "preliminary" and "final" very differently, explaining that the state might interpret the word "preliminary" to mean that the project had taken a step backwards. Ms. Lane clarified for the Planning Board that the project will come before the Planning Board with more detailed final plans before construction starts. Mr. Mirando anticipates submitting the revised site plan to the state in October or November of this year. If everything is approved in a timely manner, they hope to break ground in May or June of 2023. The approval for the site plan will be good for three years because of the many factors that are out of the control of the applicant that may cause delays to the project. Ms. Lane asked that next revised plans include the project address.

Chairman Miller called for a motion to approve the Revised Site Plan for the Hooper Road Apartments at 609 Hooper Road, with stipulations.

Motion Made: S. McLain

Motion Seconded: M. Jaros

MOTION: Approval of the Revised Site Plan for the Hooper Road Apartments at 609 Hooper Road, with stipulations.

VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros

Opposed: None

Abstained: None

Motion Carried

D. Final Homestead Village PUD / NY Union I, LLC and Union II, LLC, 4311 Watson Boulevard, Delaware River Solar, LLC., Kelly Sullivan

1. Vote on Revised Final Homestead Village PUD Development Plan

Ms. Lane described the extent of the Homestead Village PUD for the audience. She stated that the Town Board has approved the Preliminary Development Plan and now the Planning Board is charged with approving the Final Planned Unit Development Plan. She then presented her staff report on the Revised Homestead Village Final PUD Development Plan.

On May 10, 2022, the Planning Board approved the Final Homestead Village Planned Unit Development (PUD) Plan to include two community solar farms on 4311 Watson Boulevard. Delaware River Solar LLC, d.b.a. NY Union I and NY Union II, LLC, proposed a 4.98-MegaWatt alternating current (MWac) and a separate 4.75-MWac renewable energy solar system on 63-acres of 4311 Watson Boulevard, a 256-acre lot extending north between Watson Boulevard and Robinson Hill Road within the PUD. Subsequently, the Town learned that, per the Public Service Commission (PSC), in order for solar projects to be classified as Community Distributed Generation solar farms, each 5-MW a.c. solar farm must be located on a unique parcel with its own tax ID number. This update required the submittal of a revised Preliminary PUD Development Plan to include the subdivision of the two solar projects into their own parcels.

Following a public hearing on July 13, 2022, the Town Board issued a Negative Declaration per SEQRA, and approved the revised Preliminary Homestead Village PUD Development Plan to include the subdivision of two parcels for the two community solar farms. The subdivision will consist of one 37.1-acre lot and one 32.8-acre lot. The lots shall be dissolved back into 4311 Watson Boulevard as a part of the decommissioning plan. The Final Homestead Village PUD Development Plan includes the following uses: a townhouse residential development, hotel and conference center including a golf course, dental office use, a public utility facility (the battery storage facility) and a renewable energy facility (the two community solar farms). All the properties are zoned PUD and greater than 25% of the land has been dedicated as open space. The final PUD development plan conforms to the preliminary PUD plan.

The Planning Department recommends approval of the final Homestead Village Planned Unit Development Plan with the following conditions:

1. The proposed subdivision of the solar facility parcels from the principal parcel shall be identified separately as NY Union I, LLC and NY Union II, LLC on a revised PUD Site Plan prior to subdivision review.
2. Future development in the PUD should use bulk restrictions conforming to zoning districts that permit the proposed use.
3. One full-size (24"x36") copy and the PDF version of the final Homestead Village Planned Unit Development Plan shall be submitted to the Planning Department for the Planning Board Chairperson's signature.

One signed copy shall be filed in the Town of Union Clerk’s Office prior to the issuance of a building permit. One signed copy shall be for the developer.

4. Future amendments to the final development plan can be made by the applicant by submitting a new site plan to the Planning Department. The process for final development plan amendments shall be followed as detailed in § 300-65.9. Revision to PUD Districts.

5. Should the development not proceed in accordance with the approved Final Homestead Village PUD Development Plan within five years of approval, such approval shall be revoked the per § 300-65.11 of the Town Code.

6. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the signature of the Planning Board Chairperson on the site plan for the final Homestead Village Planned Unit Development Plan.

Ms. Lane noted that the five-year time period for the development of the project was taken directly from the Code book.

Chairman Miller asked for a motion to approve the Revised Final PUD Development Plan for the Homestead Village PUD, with stipulations.

Motion Made: M. Jaros
Motion Seconded: D. Kudgus
MOTION: Approval of the Revised Final PUD Development Plan for the Homestead Village PUD, with stipulations.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

2. Vote on Special Use Permit for a Large-Scale Solar Project

Per Ms. Lane, the Planning Board had held a Public Hearing for the solar farms on May 10, 2022. She then presented her staff report to the Planning Board.

Delaware River Solar applied for the construction of NY Union I, LLC, a 4.98-MegaWatt alternating current (MW a.c.) renewable energy solar system on 37.1-acres, and NY Union II, LLC, a 4.75-MW a.c. renewable energy solar system on 32.8-acres, on 4311 Watson Boulevard, a 256-acre lot extending north between Watson Boulevard and Robinson Hill Road. Large-scale solar energy systems are permitted by Special Use Permit from the Planning Board per Town Code § 161-6. The solar arrays will be ground-mounted tracking to maximize solar absorption. The total acreage of the project parcels is 147.60-acres, and the project will cover 63.0-acres. The utility will connect to the grid

at the Oakdale Substation on Robinson Hill Road to provide discounted electricity to local homes and businesses.

Per Chapter 161 of the Town Code, special use permit applications for large-scale solar projects must include a copy of legal consent between the current property owner and developer. Mr. James Walsh of the Homestead Village Development Group, LLC authorized the application for the solar project on May 10, 2021. The solar project properties are to be leased by NY Union I, LLC and NY Union II, LLC.

A property operation and maintenance plan has been submitted. Each project owner shall enter into an operations and maintenance agreement with a contractor who shall inspect and maintain the properties for routine property and equipment maintenance. Efforts shall be made to limit any disturbance during routine maintenance. Should there be any damage to ground cover, or vegetative screening, all affected areas and vegetation shall be repaired. The Operations and Maintenance Plan covers scheduled service visits for preventative maintenance and inspections, any unscheduled visits for corrective maintenance and repairs, a description of the preventative and corrective maintenance programs to maintain and operate the solar facility in the proper way. Finally, general project site maintenance includes monitoring of fencing, signage, access roads and snow removal, and maintenance of any post-construction stormwater practices, per the SWPPP.

The decommissioning plan provides an outline of the activities related to the following major steps: restoration of land, management of materials and waste, projected costs, and a proposed decommissioning fund agreement. Delaware River Solar anticipates the life of the project at 30-years. As the project sites will be cleared of trees during construction, once each solar facility is dismantled, the project site will consist of open fields and meadows. The project sites shall be seeded with low growing species to help stabilize soil conditions, and enhance soil structure and fertility.

Stormwater mitigation measures shall remain in place until the site is stabilized following dismantlement and removal of all. The equipment shall be evaluated for potential reconditioning and reuse, salvage, recycling, and disposal. Grade slabs will be broken and removed to a depth below grade as required by the NYS Energy Research and Development Authority (NYSERDA) at the time of decommissioning. Above-ground utility poles shall be completely removed. Any area of the site disturbed during the decommissioning shall be regraded to establish a uniform slope, and stabilized via seeding. The decommissioning surety plan provides a decommissioning bond in the event the property owner fails to follow through with the decommissioning.

Under the requirements of Section 617.7(c), the proposed action was determine to be a Type I Action, and the Planning Board made a Negative Declaration determination on May 10, 2022 after review of the full EAF, per SEQRA. The conclusion was that the proposed action would not result in significant adverse effects to the environment. The solar arrays are largely

hidden from view due to existing vegetation and topographical features. Increased traffic during construction would be temporary, and once constructed, the project would result in one vehicle trip every few months. The proposed project will support renewable energy use, and reduce the grid's dependence on non-renewable energy sources that negatively affect the environment.

A Stormwater Pollution Prevention Plan was submitted and reviewed by a Town-designated engineer. The property is subject to a 239-Review due to being within 500-feet of a County Road and the Village of Johnson City. Broome County Planning made a number of recommendations that are required by Town Code and have been provided by the developer.

The Planning Department recommends approval of the Special Use Permit to install one 4.98-MegaWatt alternating current (MW a.c.) renewable energy solar system on 37.1-acres, and a second, a 4.75-MW a.c. renewable energy solar system on 32.8-acres, on 4311 Watson Boulevard. Per § 161.6 A.5, special use permit conditions shall apply to all special use permits issued for large-scale solar energy systems. No special use permit shall be issued unless the Planning Board finds that the following conditions have been or will be met:

1. Per § 161.6 A.5**(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.
2. The parcels shall be “dissolved” into Code Compliant parcels as a part of the decommissioning agreement.
3. Per § 161.6 A.5**(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 implement the decommissioning plan. Prior to the issuance of a building permit and every three years thereafter, the large-scale solar 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 solar collector 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.

4 Per § 161.6 A.5(d) Report. Upon request of the Town, the owner of the large-scale solar energy system shall provide the Town Code Enforcement Officer a report showing the rated capacity of the system, and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall be submitted no later than 45 days after a written request. Failure to submit a report as required herein shall be considered a violation subject to the penalties and remedies set forth in this chapter and the Town Code.

5. The Special Permit shall expire should the property or business be sold to another entity, per § 300-66.11. Transferability:

a. A special permit is not transferable except upon approval by resolution of the issuing board.

b. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.

B. Per § 161.6 A.5(e) Transfer of ownership. Any special permit issued and all restrictions or obligations under such permit shall transfer in full force and effect to any new owner.

Mr. Dolgos interjected that the NY Union I LLC and the NY Union II LLC are the project owners and they will be the project owners for thirty years. The owner of the LLCs might change, but each LLC will keep all the contracts associated with the project. Ms. Lane added that the Town should always have appropriate contact information, and Mr. Dolgos agreed.

7. Special permit modification approval shall be required if there are any changes to the site plan or change of use on the property, per § 300-66.10.

8. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to site plan review. The applicant shall agree to follow stipulations of approval in strict accordance with the special use permit approved by the Planning Board.

Chairman Miller called for a motion to approve the Special Use Permit for a Large-Scale Solar Project, with stipulations.

Motion Made: D. Kudgus

Motion Seconded: S. McLain

MOTION: Approval of the Special Use Permit for a Large-Scale Solar Project, with stipulations.

VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros

Opposed: None

Abstained: None
Motion Carried

3. Declare Lead Agency for Subdivision Review and Site Plan Review

Chairman Miller asked for a motion to Declare Lead Agency for Subdivision Review and Site Plan Review.

Motion Made: D. Kudgus
Motion Seconded: M. Jaros
MOTION: Declare the Planning Board as Lead Agency for Subdivision Review and Site Plan Review.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

4. Classify the Project as a Type I Action

Chairman Miller asked for a motion to classify the Project as a Type I Action.

Motion Made: D. Kudgus
Motion Seconded: M. Jaros
MOTION: Classify the Project as a Type I Action.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

5. SEQRA Review / Determination

Ms. Lane explained that the Town Board has conducted the environmental review per SEQRA two different times, and this is the Planning Board's second time, due to changes to the project. On page 1 of Part 1 of the EAF, under the Brief Description of the project, Ms. Sullivan added the following two sentences: "The two solar farms will be subdivided in one 37.1-acre lot, no setback variances required, and one 32.8-acre lot with a 50-foot setback variance to the north required. The lots will be dissolved back into 4311 Watson Boulevard as part of the decommissioning plan." On page 3 of Part 1 of the EAF, Ms. Sullivan updated Section D.1(d) to include the subdivision.

In response to those additions, Ms. Lane added the following two sentences to the Determination of Significance in Part 3 of the EAF: "The project includes a 2-lot subdivision for the two project solar farms which will be dissolved upon decommissioning of the facility and have no environmental impact. One parcel requires a 50-foot setback variance and variance from subdivision code to allow for no street frontage."

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

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

6. Call for a Public Hearing for a Subdivision to be held on September 13, 2022, at the 7:00 p.m. Planning Board meeting.

Chairman Miller asked for a motion to call for Public Hearing for a Subdivision on September 13, 2022, at the 7:00 p.m. Planning Board meeting.

Motion Made: S. Forster
Motion Seconded: M. Jaros
MOTION: Call for Public Hearing for a Subdivision to be held on September 13, 2022, at the 7:00 p.m. Planning Board meeting
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

7. Advisory Opinion to ZBA: Area Setback Variance, Variance for Lot without Street Frontage

Ms. Lane presented her report to the Planning Board. The property, 4311 Watson Boulevard, is zoned Planned Unit Development (PUD), and per § 161.6-A.4.a(1), ground-mounted large-scale solar energy systems are subject to a fifty-foot setback from all property lines in planned unit development districts. The northern of the two proposed parcels meets all setback requirements (37.1-acres), but the southern proposed parcel of 32.8-acres requires a 50-foot setback variance. The two projects are immediately adjacent to each other, and meeting the 50-foot setback for both properties would be impractical as the design has been established, and no residential properties would be impacted by the proposed variance.

The Town subdivision Code section § 181-8, Subdivisions, states subdivisions are the division of or dividing of any parcel of land into five or more lots, plots or other divisions of land along an existing street, or two or more lots, plots or other divisions of land along a proposed street. The southern proposed parcel of 32.8-acres is proposed as a new lot with no road frontage, and therefore Delaware River Solar applied for a variance from the subdivision Code § 181-8, Subdivisions.

The Planning Department recommends the Planning Board recommend approval of all variances with the stipulation that all the properties be brought into conformance with Town Code upon decommissioning of the project. The Renewable Energy Chapter of the Town Code was approved prior to the Town being informed that each 5-MW solar project must be located on a unique parcel with its own tax ID number.

There were several questions about the variances. Mr. Forster asked if the road to both of the parcels was only going to be on one parcel and Ms. Sullivan answered that that was correct. Mr. Forster also asked if the projects have to be on separate parcels, whether it is allowed to have the inverters for both parcels along the internal road of northern parcel. Ms. Sullivan answered that she could move the subdivision line anywhere; it didn't really matter. If the two parcels have to be separate, Mr. Forster asked again if the wires for each project had to be separate as well. Mr. Dolgos answered that one project company will have an easement with the other project company.

Chairman Miller then asked for a motion to recommend the ZBA approval of the area setback variance and the variance for lot without street frontage.

Motion Made: M. Jaros
Motion Seconded: D. Kudgus
MOTION: Recommendation that the ZBA approve the area setback variance and the variance for a lot without street frontage.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

E. Greater Binghamton Sports Complex, 1500 Co. Airport Road, Bob Kashou and Roger Brown

Mr. Roger Brown noted that he is no longer with Chianis and Anderson Architects, and that he was attending the meeting as an observer and adviser only. He introduced Todd Anderson from the firm.

1. Declare Lead Agency

Chairman Miller asked for a motion to Declare Lead Agency.

Motion Made: S. Forster
Motion Seconded: S. McLain
MOTION: Declare the Planning Board as Lead Agency.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

2. Classify the Project as an Unlisted Action

Chairman Miller asked for a motion to classify the Project as an Unlisted Action.

Motion Made: S. Forster
Motion Seconded: S. McLain
MOTION: Classify the Project as an Unlisted Action.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain,
S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

Mr. Anderson described the site plan, noted that the building is being rebuilt, pointed out the new leach field for the septic system, and that they increased the number of parking spaces. Buses will park along the north parking spaces when needed. Ms. Lane asked that emergency parking spaces be indicated near the entrance on a revised site plan, which Mr. Anderson agreed to. Mr. Kashou stated that the building should be ready in four-to-five weeks.

Ms. Lane asked about the annual overnight night and Mr. Kashou stated that the group did reach out to him with a date in November. He will let Ms. Lane know more details. Relative to the overnight event, Ms. Lane asked about sound mitigation with the new structure. Mr. Kashou answered that the insulation in the new structure will block all noise.

3. SEQRA Review / Determination

Ms. Lane read Mr. Brown's description of the project from Part 1 of the EAF. "Repair damaged concrete piers, remove damaged portions of structural steel, replace with new steel as needed, and erect new pre-engineered metal building (PEMB). Also expand parking to add 75 spaces, including 7 handicapped accessible. Expand septic system in accordance with NYS Department of State Variance dated December 15, 2021. Provide new sprinkler main per NFPA 13 and new heads to fully sprinkler the new metal building." Ms. Lane added that Mr. Kashou had appealed to the State for a variance on restrooms. The size of the building determines the number of restrooms needed, but the new facility will not really as many as are required. The State granted the variance for the required number of restrooms.

Ms. Lane then reviewed Part 2 of the short EAF. This is a pre-developed site. Mr. Kashou is replacing a building with a smaller footprint building and adding more parking within the footprint of the former building. Ms. Lane concluded that the environmental impacts would be small to none.

Per Part 3, the Determination of Significance, Mr. Kashou applied for site plan review to expand parking for an existing commercial sports field and associated replacement indoor recreational structure on a total of 16.1-acres.

The expanded parking lot and remaining site were evaluated for any adverse negative impact on the environment.

The number of parking spaces has been increased from 208 parking spaces to 281, and with a maximum occupancy of 490, that is a ratio of 1.75 spaces per occupant. The recreational facility is pre-existing, and increases in sound are temporary and not significant. Any change to levels of sound will be rectified by Code Enforcement, but no significant changes are anticipated. In fact, the new structure should mitigate sound that may have emanated from the former dome due to the more solid building material.

The proposed action will not have any significant effects on existing traffic patterns, solid waste production or disposal. The project does not require a SWPPP as the existing stormwater remediation system has been determined by the Broome County Department of Engineering to be adequate.

The proposed action will not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources; or community or neighborhood character.

With no new soil disturbance, it will not impact archaeological resources, nor endangered or threatened vegetation or animals. The project will not create a hazard to environmental resources or human health.

The proposed project will not adversely impact the use of energy, nor have adverse impacts on subsequent development. The proposed action will not result in any adverse effects on the community's existing plans or goals, or change in use or intensity of use of land.

In summary, the proposed project will not have any significant adverse impacts on the environment.

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

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

4. Site Plan Review

Ms. Lane then presented her report to the Planning Board. Mr. Kashou, representing Kashou Enterprises, is reconstructing a sports building accessory to an outdoor soccer venue at 1500 County Airport Road following the collapse of the pre-existing sports dome. The property is zoned Rural Residential, and the indoor recreation facility is a nonconforming legal use,

permitted as accessory to the outdoor recreational sports fields by the ZBA and by Special Use Permit from the Planning Board in 2005. Per the Special Use Permit approved in 2005, the hours of operation are limited to 8 a.m. through 11 p.m.

This site plan review is triggered by an increase in required parking. The original, non-sprinklered dome had a footprint of 123,375 square-feet, and the new single-story facility, which will be sprinklered, has a footprint of 88,155 square-feet. Even though smaller, the fact that the new building is sprinklered allows a higher occupancy than the original non-sprinklered dome. The approved uses, per the Findings of Fact in the report by the NYS Department of State, are limited to assembly use for recreation (classified A-4 under the Building Code of the New York State), and associated office, administration, snack bar areas, and equipment storage. The new building is designed for field games with limited viewer areas for participants' relatives and friends.

Per the state, the existing water closets can support 200 male occupants and 450 female occupants. Mr. Kashou appealed to the NYS Department of State regarding the number of plumbing fixtures required for the increased capacity of the building over the original building. The NYS Department of State determined that the occupant load for the A-4 assembly space be posted at 490 occupants and the existing septic system shall be upgraded or replaced in order to process the unreduced occupant load for the building of eighteen hundred and eighty-two persons. Upgrades to the septic system have been approved by the Broome County Health Department. Additional portable or permanent restrooms shall be provided in order to increase the maximum occupant load of the A-4 assembly space with permission of the local authority having jurisdiction.

With the increase of occupancy, the parking spaces shall be increased from 208 parking spaces to 281, seven of which shall be accessible spaces. The new parking area is proposed in the footprint of the original building, so there will be no change in impervious area and the existing SWPPP / stormwater remediation system has been determined by the Broome County Department of Engineering to be adequate.

Under the requirements of Section 617.7(c), the proposed action is considered an Unlisted Action, and the Planning Board made a Negative Declaration after review of the short Environmental Assessment Form.

The project is subject to a 239-Review. Broome County Planning did not identify any significant county-wide impacts, but recommended that the site plan include landscaping in the parking areas.

The Planning Department staff recommends approval of the site plan to expand the parking lot with the following stipulations:

- 1) The parking lot shall be striped according to Town Code Chapter 300, Article 51, Off-Street Parking, Loading and Stacking Regulations. The required handicapped-accessible parking spaces shall conform to the

Property Maintenance Code of NYS, and shall be posted with signage displaying the international symbol of accessibility. The handicap parking access spaces shall be no less than eight-feet by eighteen-feet (8'x18'). All paving and striping shall be complete prior to the issuance of a Certificate of Occupancy.

2) The parking plan shall be updated to show parking for emergency vehicles. Parking shall be prohibited in clearly marked areas dedicated to emergency vehicles and their access-ways. Parking shall not be closer than 10 feet to any property line, and not within the Columbia / Millennium Pipeline Group's 50-foot utility right-of-way. The parking plan shall be updated no later than August 26, 2022, to show the parking for emergency vehicles.

3) A landscaping plan shall be submitted by October 30, 2022. An extension of this deadline may be approved by the Planning Board.

Ms. Lane commented that she would like to see more landscaping to break up the visual impact of a stark building. Mr. Kashou agreed that he would like to see more landscaping as well; he is thinking of putting some landscaping between the building and the parking lot.

4) Trees shall have minimum caliper of two inches at the time of planting. Shrubs shall have a minimum height of two feet at the time of planting.

5) 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.

6) Before any new proposed use outside of the outdoor and indoor sporting recreational use, site plan review and/or special use permit review may be required. You shall consult with the Code Enforcement Official prior to any such new use.

7) For any new signage, the applicant shall first apply for a sign permit from the Building Official prior to display. All temporary signs, portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. The use of electronic message boards is expressly prohibited.

8) There shall be no outdoor storage on the property.

9) Site plan approval shall be valid for one year unless substantial improvements have been made pursuant to the approved site plan and a valid building permit. The Planning Board may approve a request for an extension of this date with a reasonable justification for the request.

10) The applicant shall be required to acknowledge all of the above conditions, in writing, prior to August 26, 2022. 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.

Ms. Lane explained that there is not a specific parking requirement that applied to soccer games. Per clause § 300-51.3 (below), Code Enforcement considered the project as similar to an outdoor skating rink in terms of parking requirements. Per the code, one parking space is required for every five people at a skating rink. Ms. Lane asked the Planning Board members if they were okay with using the skating rink determination for the parking requirement. The Planning Board members agreed that this determination, one parking space required for every five people, was reasonable for the parking requirement for the sports facility.

§ 300-51.3 Minimum required parking spaces.

Parking for all uses and structures shall be provided in accordance with Parking Space Table in this section. Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the Planning Board based upon the capacity of the facility and its associated uses. The Planning Board may consult with the Town or Village Engineer or other resources in its determination. The Planning Board may require off-street parking and loading spaces in addition to those required by this article for the safety and general welfare of the public.

Chairman Miller called for a motion to approve the Revised Site Plan for the Greater Binghamton Sports Complex and Parking Lot at 1500 County Airport Road, with stipulations.

Motion Made: M. Jaros
Motion Seconded: D. Kudgus
MOTION: Approval of the Revised Site Plan for the Greater Binghamton Sports Complex and Parking Lot at 1500 County Airport Road, with stipulations.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

F. 2 S. Knight Avenue Rezone Petition – USF to GC, Samaritan Counseling Center, Marian Towers

Ms. Marian Towers, Executive Director of the Samaritan Counseling Center of the Southern Tier, stated that the center had moved to their current location at the corner of North Street, E. Main Street and South Knight Avenue about five years ago. The organization has grown tremendously during that time and the Board has become extraordinarily active. Ms. Towers introduced Board members Greg Catarella, Lisa Gallagher and Linda Mackenzie. The blue house at 2 S. Knight

Avenue, right behind their current office, had come up for auction several years ago, and they thought the building would provide space for additional counseling and group counseling. They currently have eleven offices, two-stories and a basement, but cannot have clients in the basement. In addition, the Center does not have a room large enough in their current building to serve groups. They hope to open the main floor of the blue building to accommodate group meetings. They could also offer handicap accessibility with a ramp at the blue house.

Ms. Lane explained that the property would have to be rezoned in order to use the building at 2 S. Knight Avenue as such. The Samaritan Center located at 3001 E. Main Street is zoned General Commercial, so it would not be spot zoning because it would be an expansion of the General Commercial zoning.

The Planning Board asked what kind of counseling they do. Ms. Towers answered that they do anger management, anxiety, grief, trauma, children and couples counseling. Mr. Catarella said that they have waiting lists for all of their services and they need to expand. All of the renovations to the building would be inside and the building will still look like a house and fit in with the neighborhood.

Ms. Lane explained that the public hearing regarding the change of zone will be held at the Town Board meeting on September 7. The property will be posted and a legal notice will run in the paper ten days before the public hearing.

Mr. Forster asked what the hours of operation were. Ms. Towers answered that they are between 8 a.m. and 8 p.m. Mr. Forster expressed concern about the possibility of clients who attend anger management sessions affecting the neighbors. Ms. Towers addressed the concern about possible violence by stating that they have all female counselors on staff, except for one male counselor, and they do not want a group of angry people coming for group sessions. They serve clients with anger management problems as individuals, not in a group setting. Mr. Catarella added that their clients with anger management problems are coming voluntarily; they are not being dropped off by law enforcement. Ms. Towers said they would be able to hire additional therapists if they were allowed to expand to the new building. Mr. Catarella said that no one would be living in the house; it would only be used as an office facility.

1. Advisory Opinion to the Town Board

Planning staff recommends the Planning Board recommend the Town Board rezone 2 S. Knight Avenue (#141.20-6-28) from Urban Single-Family to General Commercial for the proposed conversion of a residential house to offices and meeting rooms for their adjacent counseling center. It is not spot zoning, and the intended office use is low intensity. Uses in the future proposed for the site that are of greater intensity would require a special use permit, and may be deemed inappropriate. Mitigation measures could prevent adverse impacts on the surrounding neighborhood.

Chairman Miller asked for a motion to recommend approval to the Town Board for the rezoning of 2 S. Knight Avenue from Urban Single Family (USF) to General Commercial (GC).

Motion Made: D. Kudgus
Motion Seconded: M. Jaros
MOTION: Recommendation to the Town Board for approval of the zoning change at 2 S. Knight Avenue from Urban Single Family (USF) to General Commercial (GC).
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, M. Jaros
Opposed: S. Forster
Abstained: None
Motion Carried

G. Pawlandias – Dog Treats and Daycare, 1221 Campville Road, Rachel Johnson

1. Declare Lead Agency

Chairman Miller asked for a motion to Declare Lead Agency.

Motion Made: S. Forster
Motion Seconded: D. Kudgus
MOTION: Declare the Planning Board as Lead Agency.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

2. Classify the Project as an Unlisted Action

Chairman Miller asked for a motion to classify the Project as an Unlisted Action.

Motion Made: S. Forster
Motion Seconded: D. Kudgus
MOTION: Classify the Project as an Unlisted Action.
VOTE: **In Favor:** L. Miller, D. Kudgus, S. McLain, S. Forster, M. Jaros
Opposed: None
Abstained: None
Motion Carried

3. Call for a Public Hearing for a Kennel Special Use Permit to be held on September 13, 2022, at the 7:00 p.m. Planning Board meeting

Chairman Miller asked for a motion to call for Public Hearing for a Special Use Permit for a Kennel on September 13, 2022, at the 7:00 p.m. Planning Board meeting.

Motion Made: S. Forster
Motion Seconded: D. Kudgus

MOTION: Call for Public Hearing for a Kennel Special Use Permit to be held on September 13, 2022, at the 7:00 p.m. Planning Board meeting

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

Ms. Rachel Johnson, President of non-profit Team HopeFull, explained that their mission is to help people with Prader-Willi Syndrome and people with other special needs. To fulfill that mission, they created Pawlandias, which is a small business that makes dog treats and dog toys that they sell at craft fairs or online. Her daughter, who is fifteen, has Prader-Willi Syndrome, and they want to help her and other people with special needs have a fulfilling life. They would like, by the time their daughter graduates, to have a commercial property where special needs workers could expand their product line. Over the next three to five years, they hope to start a dog daycare business as well for which the people with special needs would be able to provide enrichment and cuddling, giving them an opportunity to have a valuable role in the community. They would not be housing dogs overnight. The building is a house, and in a General Commercial district.

Ms. Lane explained that Ms. Johnson can already make the dog treats and toys, but before she makes the investment into the house, is applying for the special use permit to make sure that the dog daycare use would be approved. Concerning the regulation that a special use permit expires if not in use for three months, the special use permit timeline for a kennel use would not actually start until the dog daycare business has started. Ms. Lane added that not everything in the Code that falls under the kennel special use permit will apply to the project, but granting this permit would allow Ms. Johnson to develop the Pawlandias site.

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

Next month there will be a site plan review for a dog groomer at 3008 Watson Boulevard. Ms. Lane explained that the groomer is already operating the business at this location, and she only grooms one dog at a time. The building is a house with a driveway that loops around the house so clients enter from one side, drop the dog off, and drive out the other side of the house. Scott Forster asked if the building has an existing sign, but Ms. Lane didn't know. Often people start a new business, not realizing that they need an approval for that new business, but as long as they come into the Planning Board to get the proper approvals, the Town does not make them stop the business.

Ms. Lane noted that Good Shepherd Village (PUD) will be coming in for minor additions to the facility. Because these are not major improvements, it does not have to go before the Town Board for an amended PUD Plan.

J. Adjournment

Chairman Miller asked for a motion to adjourn the meeting at 8:46 p.m.

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

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, September 13, 2022, at 7:00 p.m.

Respectfully Submitted,
Carol Krawczyk